

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**

NOTICE OF PROPOSED RULEMAKING

Notice published May 27, 2022

The Department of Justice (Department) proposes to amend sections 300, 300.1, 300.2, 301, 302, 303, 304, 305, 306, 308, 310, 311, 312, 312.1, 313, 314, 315, 316, 999.1, 999.2, 999.3, 999.4, 999.6, 999.7, 999.8, 999.9, 999.9.1, 999.9.2, 999.9.3, 999.9.4, and 999.9.5, and to adopt sections 314, 315, 316, 317, 318, 319, 320, 321, 322, and 323 of title 11, division 1, chapters 4 and 15 of the California Code of Regulations concerning charities, charitable trusts, and charitable fundraising, including newly regulated charitable fundraising platforms and platform charities, that are governed by The Supervision of Trustees and Fundraisers for Charitable Purposes Act (Act), Government Code section 12580 et seq.

PUBLIC HEARING

The Department will hold a public hearing to provide all interested persons an opportunity to present statements or arguments, either orally or in writing, with respect to the proposed regulations, as follows:

July 13, 2022 at 9:00am PDT

Online via BlueJeans

<https://primetime.bluejeans.com/a2m/live-event/ufzsbkix>

[Join Meeting Here](#)

(NOTE: You will be prompted to join via the BlueJeans app if you have it installed.
You may also join via your browser without installing the app.)

OR

Dial (415) 466-7000

Meeting ID: 6748237#

The Department requests but does not require that persons who make oral comments at the hearing also submit a written copy of their testimony at the hearing.

WRITTEN COMMENT PERIOD

Any interested person or their authorized representative may submit written comments relevant to the proposed regulatory action. The written comment period closes on July 12, 2022 at 5:00pm. Only written comments received by that time will be considered. Please submit written comments to:

Department of Justice
Office of the Attorney General
Charitable Trusts Section
Attn: Brian Armstrong, Deputy Attorney General
455 Golden Gate Ave., Suite 11000
San Francisco, CA 94102-7004
(415) 510-3758
charities.regulations@doj.ca.gov

NOTE: Written and oral comments, attachments, and associated contact information (e.g., address, phone, email, etc.) become part of the public record and can be released to the public upon request.

AUTHORITY AND REFERENCE

Authority: Sections 12581, 12585, 12586, and 12587, 12590, 12598, and 12599.10, Government Code; Sections 5914 and 5918, Corporations Code.

Reference: Sections 11400 et seq., 11425.10, 11425.60, 11500 et seq., 11517, 11518.5, 11519, 12581, 12581.2, 12582, 12582.1, 12583, 12584, 12585, 12586, 12586.1, 12587, 12587.1, 12588, 12589, 12590, 12591, 12591.1, 12594, 12595, 12596, 12597, 12598, 12599, 12599.1, 12599.2, 12599.3, 12599.5, 12599.6, 12599.7, 12599.8, 12599.9 and 12599.10, Government Code; Sections 2205, 5008.6, 5142, 5223, 5225, 5226, 5227, 5230, 5231, 5232, 5233, 5235, 5236, 5237, 5238, 5239, 5240, 5250, 5260, 5617, 5813.5, 5820, 5913, 5914, 5918, 5920, 6010, 6215, 6320, 6510, 6611, 6612, 6613, 6617, 6716, 6721, 6810, 6910, 7142, 7223, 7225, 7231, 7233, 7236, 7237, 7238, 7616, 7820, 7913, 8010, 8510, 8611, 8612, 8613, 8616, 8723, 8810, 9230, 9633, 9640 and 9680, Corporations Code; Sections 17510, 17510.2, 17510.25, 17510.3, 17510.4, 17510.5, 17510.8, 17510.85 and 17510.9, Business and Professions Code; Section 23775, Revenue and Taxation Code.

INFORMATIVE DIGEST/POLICY STATEMENT OVERVIEW

Summary of Existing Laws and Regulations:

The Act 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, 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.) Organizations and persons subject to the Act are required to register and file periodic reports with the Attorney General, among other requirements. (Gov. Code, §§ 12585, subd. (a), 12586,

12599, 12599.1, 12599.2.) The Attorney General is authorized to make rules and regulations regarding the Act, including the time for filing reports, the content of such reports, and the manner of executing and filing them. (Gov. Code, §§ 12586, subd. (b), 12587.)

The Act prohibits specified acts and practices in the planning, conduct, or execution of any solicitation or charitable sales promotion, including using any unfair or deceptive acts or practices in solicitations or charitable sales promotions, engaging in any fraudulent conduct that creates a likelihood of confusion or misunderstanding, and misrepresenting or misleading anyone in any manner to believe that another person sponsors, endorses, or approves a charitable solicitation or charitable sales promotion when that person has not given consent in writing to the use of the person's name for these purposes. (Gov. Code, § 12599.6.) The Act also prohibits representing that any part of the contributions solicited by a charitable organization will be given or donated to any other charitable organization unless that organization has consented in writing to the use of its name prior to the solicitation. (Gov. Code, § 12599.6.)

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. Pursuant to AB 488, the newly enacted Government Code section 12599.9 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. (Gov. Code, § 12599.9, subd. (a).) The solicitation acts include soliciting donations intended for recipient charitable organizations referenced on the platform, permitting persons who use the platform to solicit donations intended for recipient charitable organizations, referencing charitable organizations to receive donations based on purchases made or other activity performed by persons who use the platform, and providing a customizable platform to charitable organizations that solicit or receive donations through the platform. (Gov. Code, § 12599.9, subd. (a)(1).) A "platform charity" is a trustee or charitable corporation that facilitates acts of solicitation on a charitable fundraising platform, including soliciting donations through a charitable fundraising platform for itself from donors who use the platform with the implied or express representation that the platform charity may grant donations to recipient charitable organizations, or granting funds to recipient charitable organizations based on purchases made or other activity performed by persons who use the platform. (Gov. Code, § 12599.9, subd. (a)(5).)

Government Code section 12599.9 requires a charitable fundraising platform, before soliciting, permitting, or otherwise enabling solicitations, to register with the Attorney General's Registry of Charitable Trusts, under oath, on a form provided by the Attorney General. Government Code section 12599.9 requires persons or entities that meet the definition of a charitable fundraising platform and platform charity to register as a charitable fundraising platform. Government Code section 12599.9 requires annual renewal of registration, and for the Attorney General to impose registration and renewal fees and deposit revenues in the Registry of Charitable Trusts Fund, for use as specified. (Gov. Code, § 12599.9, subd. (b).)

Government Code section 12599.9 requires a charitable fundraising platform to file annual reports, under oath, with the Registry of Charitable Trusts on a form provided by the Attorney General. Government Code section 12599.9 restricts a charitable fundraising platform or platform charity to soliciting, permitting, or otherwise enabling solicitations, or receiving,

controlling, or distributing funds from donations for recipient or other charitable organizations in good standing, as defined. Government Code section 12599.9 requires a charitable fundraising platform or platform charity to provide prescribed conspicuous disclosures that prevent a likelihood of deception, confusion, or misunderstanding before a person can complete a donation or select or change a recipient charitable organization. (Gov. Code, § 12599.9, subds. (c)-(e).)

Government Code section 12599.9 requires a charitable fundraising platform or platform charity to obtain the written consent of a recipient charitable organization before using its name in a solicitation. Written consent is not required for certain acts of solicitation if specific requirements are met. Government Code section 12599.9 requires a charitable fundraising platform or platform charity to promptly provide a tax donation receipt after donors contribute. Government Code section 12599.9 prohibits a charitable fundraising platform or platform charity from diverting or otherwise misusing the donations received through solicitation on the charitable fundraising platform, and requires the entity to hold them in a separate account and to ensure donations and grants of recommended donations are sent promptly to recipient charitable organizations with an accounting of any fees imposed for processing the funds. (Gov. Code, § 12599.9, subds. (f)-(h).)

Lastly, Government Code section 12599.10 requires the Attorney General to establish rules and regulations they determine to be necessary for the administration of Government Code section 12599.9, in accordance with prescribed requirements. (Gov. Code, § 12599.10.)

Effect of the Proposed Rulemaking:

The proposed rulemaking amends the Department's regulations consistent with the revised statutes and newly enacted statutes. The forms incorporated by reference similarly implement the registration and reporting requirements created by the new statutes.

Anticipated Benefits of the Proposed Regulations:

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.

Comparable Federal Regulations:

There are no existing federal regulations or statutes comparable to these proposed regulations.

Determination of Inconsistency/Incompatibility with Existing State Regulations:

The Department has determined that these proposed regulations are not inconsistent or incompatible with existing State regulations. After conducting a review for any regulations that would relate to or affect this area, the Department has concluded that these are the only regulations that concern charitable fundraising platforms and platform charities.

Forms Incorporated by Reference:

1. Initial Registration Form (“Form CT-1” Rev. 01/2023): Section 300.
2. Annual Registration Renewal Fee Report, (“Form RRF-1”) Rev. 01/2023): Section 301.
3. Commercial Fundraiser for Charitable Purposes Annual Registration Form (“Form CT-1CF” Rev. 01/2023): Section 313.
4. Commercial Fundraiser for Charitable Purposes (“Form CT-2CF” Rev. 01/2023): Section 313.
5. Commercial Fundraiser for Charitable Purposes/Thrift Store Operations (“Form CT-2TCF” Rev. 01/2023): Section 313.
6. Commercial Fundraiser for Charitable Purposes/Vehicle Donation Program (“Form CT-2VCF” Rev. 01/2023): Section 313.
7. Fundraising Counsel for Charitable Purposes Annual Registration Form (“Form CT-3CF” Rev. 01/2023): Section 313.
8. Commercial Coventurer Annual Registration Form (“Form CT-5CF” Rev. 01/2023): Section 313.
9. Commercial Coventurer Annual Financial Report Form (“Form CT-6CF” Rev. 01/2023): Section 313.
10. Notice of Intent to Solicit for Charitable Purposes - Commercial Fundraiser for Charitable Purposes Form (“Form CT-10CF” Rev. 01/2023): Section 313.
11. Notice of Intent to Provide Services Related to Charitable Solicitation - Fundraising Counsel for Charitable Purposes Form (“Form CT-11CF” Rev. 01/2023): Section 313.
12. Initial Registration for Charitable Fundraising Platforms (“Form PL-1” Orig. 01/2023): Section 315.
13. Registration Renewal for Charitable Fundraising Platforms (“Form PL-2” Orig. 01/2023): Section 315.
14. Notification from Platform Charities (“Form PL-3” Orig. 01/2023): Section 315.
15. Annual Report for Charitable Fundraising Platforms or Platform Charities (“Form PL-4” Orig. 01/2023): Section 315.

Other Statutory Requirements:

None.

DISCLOSURES REGARDING THE PROPOSED ACTION

The Department’s Initial Determinations:

Mandate on local agencies or school districts: None.

Cost or savings to any state agency: The Department’s FY 2022-23 expenditures to implement the new statutes and supervise charitable fundraising platforms and platform charities are projected at \$415,000, and FY 2023-24 expenditures are projected at \$659,000. The Department estimates the registration fees for charitable fundraising platforms and platform charities will generate \$650,000 in revenue. Therefore, the Department does not anticipate revenue to exceed expenditures.

Cost to any local agency or school district which must be reimbursed in accordance with Government Code sections 17500 through 17630: None.

Other non-discretionary costs or savings imposed on local agencies: None.

Cost or savings in federal funding to the state: None.

Cost impacts on representative person or business: Charitable fundraising platforms will be required to pay a \$625 registration fee each year. This fee is similar to the \$500 annual registration fee charged to other fundraising professionals (commercial fundraiser, fundraising counsel, commercial coventurer).

Platform charities will be required to register annually as trustees. Although the initial registration fee for platform charities as trustees is \$50, the renewal fees range from \$25 to \$1,200, depending on the platform charity’s revenue from the prior year.

Significant effect on housing costs: None.

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

Results of the Economic Impact Assessment (EIA):

The Department concludes that it is (1) unlikely that the proposal will create or eliminate jobs within the state, (2) unlikely that the proposal will create new businesses or eliminate existing businesses within the state, (3) unlikely that the proposal will result in the expansion of businesses currently doing business within the state.

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.

Business report requirement: The Department finds it is necessary for the health, safety or welfare of the people of this state that proposed sections 300, 301, 313, and 315, which require a report, applies to businesses. Existing law already requires charities, charitable trustees, professional fundraisers, and other persons or legal entities that hold or solicit charitable donations to register and report to the Registry of Charitable Trusts. The proposed amendments impose registration and reporting requirements on newly regulated charitable fundraising platforms and platform charities. These amendments will benefit the public who will receive more accurate information about charitable donations solicited through charitable fundraising platforms, registrants who will understand what information is required without needing to contact Registry staff, and the Department which will receive more accurate information used to safeguard charitable assets and protect the public from fraud and deceptive or unfair solicitations.

Small business determination: The Department has determined that the proposed action affects small businesses.

CONSIDERATION OF ALTERNATIVES

In accordance with Government Code section 11346.5, subdivision (a)(13), the Department must determine that no reasonable alternative considered by the Department or that has otherwise been identified and brought to the attention of the Department would be more effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to affected private persons than the proposed action or would be more cost-effective to affected private persons and equally effective in implementing the statutory policy or other provision of law.

The Department has determined that the proposed regulations are the most effective way for charitable organizations to provide required information to the Department. The proposed procedures and forms are the least burdensome way to ensure that charities 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 organizations, including how they spend their charitable revenue and assets. The proposed regulations follow existing regulations governing the registration of charities, charitable trustees, professional fundraisers, and other persons or legal entities that hold or solicit charitable donations in California. By modeling existing registration and reporting requirements, the

proposed regulations efficiently implement AB 488 in a way that is already familiar to the regulated community.

CONTACT PERSONS

Inquiries concerning the proposed administrative action may be directed to:

Department of Justice
Office of the Attorney General
Charitable Trusts Section
Attn: Brian Armstrong, Deputy Attorney General
455 Golden Gate Ave., Suite 11000
San Francisco, CA 94102-7004
(415) 510-3758
charities.regulations@doj.ca.gov

Questions regarding procedure, comments, or the substance of the proposed action should be addressed to the above contact person. In the event the contact person is unavailable, inquiries regarding the proposed action may be directed to the following backup contact person:

Marlon Martinez
Department of Justice
300 South Spring Street, 9th Floor
Los Angeles, CA
(213) 269-6437
regulations@doj.ca.gov

AVAILABILITY OF STATEMENT OF REASONS, TEXT OF PROPOSED REGULATIONS, AND RULEMAKING FILE

The Department will have the entire rulemaking file available for inspection and copying throughout the rulemaking process at its office at the above address addresses upon appointment. As of the date this Notice of Proposed Rulemaking (Notice) is published in the Notice Register, the rulemaking file consists of this Notice, the Text of Proposed Regulations (the “express terms” of the regulations), new and newly revised registry forms incorporated by reference, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based. The text of this Notice, the express terms, the forms, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on the Department’s website at <https://oag.ca.gov/charities/laws>. Please refer to the contact information listed above to obtain copies of these documents.

AVAILABILITY OF CHANGED OR MODIFIED TEXT

After the Department analyzes all timely and relevant comments received during the 45-day public comment period, the Department will either adopt these regulations substantially as described in this notice or make modifications based on the comments. If the Department makes modifications which are sufficiently related to the originally-proposed text, it will make the modified text (with the changes clearly indicated) available to the public for at least 15 days

before the Department adopts the regulations as revised. Please send requests for copies of any modified regulations to the attention of the name and address indicated above. The Department will accept written comments on the modified regulations for 15 days after the date on which they are made available.

AVAILABILITY OF THE FINAL STATEMENT OF REASONS

Upon its completion, a copy of the Final Statement of Reasons will be available on the Department's website at <https://oag.ca.gov/charities/laws>. Please refer to the contact information included above to obtain a written copy of the Final Statement of Reasons.

AVAILABILITY OF DOCUMENTS ON THE INTERNET

Copies of the Notice of Proposed Rulemaking, the express terms, the forms incorporated by reference, the Initial Statement of Reasons, and any information upon which the proposed rulemaking is based are available on the Department's website at <https://oag.ca.gov/charities/laws>.