

Adopt Jus 400 to read as follows:

CHAPTER Jus 400 CHARITABLE TRUSTS

Statutory Authority: RSA 7:22

PART Jus 401 DEFINITIONS

Jus 401.01 “Authorized agent” means a person or entity authorized to electronically file documents with the charitable trusts unit on behalf of a charitable trust, fundraising counsel, or paid solicitor as a result of filing with the charitable trusts unit a completed form NHCT-50 “Authorization for Electronic Filing by Agent,” effective September 2022, available on www.doj.nh.gov/charitable-trusts/forms.htm.

Jus 401.02 “Charitable gift annuity” means “charitable gift annuity” as defined in RSA 403-E:1, II.

Jus 401.03 “Charitable lead annuity trust” means an irrevocable trust that distributes payments each year to a charitable beneficiary or beneficiaries for a fixed term of years or during the grantor’s lifetime, and after the term ends, distributes the remaining assets to the grantor or the grantor’s descendants.

Jus 401.04 “Charitable organization” means “charitable organization” as defined in RSA 7:21, II (b).

Jus 401.05 “Charitable purpose” means an intention or mission that is benevolent, philanthropic, patriotic, educational, humane, recreational, scientific, public health, environmental conservation, civic, or otherwise beneficial to the public interest. The term includes any purposes that could qualify for a determination of tax exempt status pursuant to 26 U.S.C. § 501(c)(3) of the Internal Revenue Code.

Jus 401.06 “Charitable remainder trust” means an irrevocable trust that distributes amounts to non-charitable beneficiaries for a specified period and thereafter distributes all or a portion of the remainder to a charitable beneficiary or beneficiaries. The term includes a charitable remainder annuity trust and a charitable remainder unitrust.

Jus 401.07 “Charitable sales promotion” means “charitable sales promotion” as defined in RSA 7:21, I.

Jus 401.08 “Charitable trust” means “charitable trust” as defined in RSA 7:21, II (a) and (b).

Jus 401.09 “Charitable trusts unit” means the office of the director of charitable trusts of the New Hampshire department of justice.

Jus 401.10 “Charity care” means “charity care” as defined in RSA 7:32-d, I.

Jus 401.11 “Commercial co-venturer” means “commercial co-venturer” as defined in RSA 7:21, III.

Jus 401.12 “Community” means “community” as defined in RSA 7:32-d, II.

Jus 401.13 “Community benefits plan” means “community benefits plan” as defined in RSA 7:32-d, IV.

Jus 401.14 “Community needs” means community health care needs.

Jus 401.15 “Community needs assessment” means “community needs assessment” as described in RSA 7:32-f as the “identification and prioritization of community needs that the health care charitable trust can address directly, or in collaboration with others.”

Jus 401.16 “Director” means the director of charitable trusts, appointed pursuant to RSA 7:20.

Jus 401.17 “Donated conservation easement” means a restriction, easement, covenant, or condition in any deed conveyed as a charitable gift in whole or in part to a charitable organization or a governmental entity, which restricts or limits activities on or uses of a land or water area in order to retain or maintain such land or water area predominantly in its natural, scenic, or open condition, or in agricultural, farming, open space, or forest use, or in any other use or condition consistent with the protection of environmental quality. The term does not include a restriction on land use imposed by a governmental entity upon a landowner if the transfer lacks any charitable intent and makes no reference to RSA 36-A:4.

Jus 401.18 “Entity” means an organization created as a corporation, express trust, or unincorporated association. The term does not include a partnership or limited liability company.

Jus 401.19 “Express trust” means a trust that is purposefully and intentionally declared in a written instrument by the creator, settlor, or testator or by court decree.

Jus 401.20 “Fund raising counsel” means “fund raising counsel” as defined in RSA 7:21, V.

Jus 401.21 “Generally accepted accounting principles” means the accounting principles, standards, and procedures established by the Financial Accounting Standards Board.

Jus 401.22 “Governing documents” means the articles of agreement, bylaws, charter, constitution, trust instrument, last will and testament, or other document that sets forth the entity’s purpose and directs or rules the operations of the entity.

Jus 401.23 “Health care charitable trust” means “health care charitable trust” as defined in RSA 7:32-d, V.

Jus 401.24 “New Hampshire-based” entity means:

- (a) An entity created under the laws of New Hampshire; or
- (b) An entity created or formed outside of New Hampshire that has its principal place of operations in New Hampshire.

Jus 401.25 “Paid solicitor” means “paid solicitor” as defined in RSA 7:21, VI.

Jus 401.26 “Pecuniary benefit transaction” means “pecuniary benefit transaction” as defined in RSA 7:19-a, I (c).

Jus 401.27 “Private foundation” means a “private foundation” as defined in 26 U.S.C. § 509(a) of the Internal Revenue Code.

Jus 401.28 “Probate court” means the probate division of the New Hampshire circuit court.

Jus 401.29 “Qualified charitable gift annuity” means a “qualified charitable gift annuity” as defined in RSA 403-E:1, V.

Jus 401.30 “Reasonable minimum contacts” means that a charitable trust:

- (a) Conducts more than *de minimis* operations in New Hampshire;
- (b) Specifically targets, through internet or non-internet means, New Hampshire residents to make donations; or

(c) Receives donations from New Hampshire residents on a repeated and ongoing or a substantial basis.

Jus 401.31 “Religious organization” means “church” as defined in 26 U.S.C. § 6033(a)(3)(A)(i).

Jus 401.32 “Solicitation” means “solicitation” as defined in RSA 7:21, VII.

Jus 401.33 “Testamentary trust” means a trust established in accordance with the instructions contained in a last will and testament.

Jus 401.34 “Trustee” means the trustee of an express trust, a municipal trustee of trust funds as described in RSA 31:22, or a library trustee as described in RSA 202-A:6-8.

PART Jus 402 REGISTRATION OF CHARITABLE TRUSTS

Jus 402.01 Registration Requirement.

(a) Except as described in Jus 402.01(c), any charitable trust that is New Hampshire-based shall register with the charitable trusts unit in accordance with RSA 7:28, I.

(b) Except as described in Jus 402.01(c), any charitable trust that is not New Hampshire-based but has reasonable minimum contacts in New Hampshire shall register with the charitable trusts unit in accordance with RSA 7:28, I.

(c) Registration in accordance with RSA 7:28, I shall not apply to the following:

(1) The United States, any state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or to any of their agencies or governmental subdivisions;

(2) Any religious organization;

(3) Any express trust in which any charitable interests remain revocable by the settlor;

(4) Any express trust, including a charitable remainder trust, charitable lead annuity trust, or testamentary trust, that has a present obligation to make distributions to charitable beneficiary(ies), provided that:

a. The charitable interests are fully distributed within one year from the inception of the trustee’s power pursuant to the trust instrument or probate court order to make such distributions; and

b. The trust complies with Jus 403.01 or Jus 403.02, if applicable;

(5) Any express trust, including a charitable remainder trust, that is irrevocable but has no present obligation to make distributions to charitable beneficiaries, provided that the trust complies with Jus 403.02;

(6) Any estate subject to probate court administration that involves a will which includes a charitable bequest, provided that the administrator complies with Jus 403.01, if applicable; and

(7) Any donated conservation easement or interest in real estate donated for a charitable purpose.

Jus 402.02 NHCT-10 Request for Pre-registration Review.

(a) Any entity may request a determination from the charitable trusts unit as to whether it is required to register as a charitable trust.

(b) Any entity seeking a determination from the charitable trusts unit as to whether it is required to register shall complete and submit Form NHCT-10 “Request for Pre-Registration Review,” effective September 2022, available on www.doj.nh.gov/charitable-trusts/forms.htm.

(c) The entity shall provide with the completed Form NHCT-10 the following documents:

(1) The entity’s governing document(s), which include:

- a. For charitable trusts that are corporations, copies of the articles of agreement or articles of incorporation and bylaws with any amendments;
- b. For express trusts, copies of the trust instrument with any amendments; or
- c. For organizations other than charitable corporations or express trusts, copies of the organization’s constitution, charter, or other governing document with any amendments;

(2) Letter of determination of nonprofit status issued by the Internal Revenue Service or, if a letter of determination of nonprofit status has not been issued by the Internal Revenue Service, a summary of the entity’s activities and a statement as to how the entity raises revenue; and

(3) The entity’s most recent Internal Revenue Service Form 990, Internal Revenue Service Form 990-EZ, Internal Revenue Service Form 990-PF, audited financial statement, or if the foregoing are not available, a current financial statement showing revenues and expenditures.

(d) Form NHCT-10 shall be submitted to the charitable trusts unit either in hardcopy or online at www.doj.nh.gov/charitable-trusts/forms.htm.

(e) The charitable trusts unit shall respond in writing to the request for pre-registration review. The response shall state that registration is required in New Hampshire, registration is not required in New Hampshire, or the charitable trusts unit requires additional information in order to make a determination.

Jus 402.03 Deadline for Filing Application for Registration.

(a) Any charitable trust that is required to register in New Hampshire shall register with the charitable trusts unit within 6 months after any part of the income or principal is authorized or required to be expended for a charitable purpose.

(b) Registration shall be accomplished by filing with the charitable trusts unit a completed Form NHCT-11 “Application for Registration,” as amended September 2022, available on www.doj.nh.gov/charitable-trusts/forms.htm.

(c) Any charitable trust that is required to register with the charitable trusts unit but fails to do so by the deadline set forth in Jus 402.03(a) shall not operate in New Hampshire or solicit contributions from New Hampshire residents unless or until it receives a certificate of registration from the charitable trusts unit.

Jus 402.04 Form NHCT-11 Application for Registration.

(a) Any charitable trust required to register with the charitable trusts unit shall complete and submit Form NHCT-11 “Application for Registration,” effective September 2022, available on www.doj.nh.gov/charitable-trusts/forms.htm.

(b) Any charitable trust required to register with the charitable trusts unit shall supply with Form NHCT-11 the following documents:

(1) The governing documents, which include:

- a. For charitable trusts that are corporations, copies of the articles of agreement or articles of incorporation and bylaws with any amendments;
- b. For express trusts, copies of the trust instrument with any amendments; or
- c. For organizations other than charitable corporations or express trusts, copies of the organization's constitution, charter, or other governing document with any amendments;

(2) The determination letter from the Internal Revenue Service that the charitable trust is exempt from taxation, if the Internal Revenue Service issued a determination letter;

(3) One of the following:

- a. Most recent bank statement or a bank check of the charitable trust that displays the name of the account holder and account number;
- b. Internal Revenue Service Form 990, Form 990-EZ, or Form 990-PF the charitable trust most recently filed with the Internal Revenue Service; or
- c. If neither a. nor b. exist, a written explanation as to where the charitable trust's financial assets are held; and

(4) For New Hampshire-based charitable trusts other than private foundations, the charitable trust's policy or policies pertaining to pecuniary benefit transactions and conflicts of interest.

(c) Form NHCT-11 shall be signed by the president or treasurer of the governing board if a charitable organization or a trustee if an express trust. Form NHCT-11 may be signed by the executive director only if the charitable trust is not New Hampshire-based.

(d) Form NHCT-11 may be submitted by an authorized agent if the form is electronically filed and the charitable trust submits Form NHCT-50 "Authorization for Electronic Filing by Agent," pursuant to Jus 412.

(e) The completed Form NHCT-11 shall be accompanied by a non-refundable fee of \$25.00.

(f) Form NHCT-11 shall be submitted to the charitable trusts unit either in hardcopy or online at www.doj.nh.gov/charitable-trusts/forms.htm.

Jus 402.05 Deficiencies in Applications.

(a) Upon review of a Form NHCT-11 "Application for Registration" that is not in proper form, including but not limited to, an incomplete application or an application that is not in compliance with Jus 402.04, RSA 7:19-32-*l*, or RSA 292, the charitable trusts unit shall retain the application and notify the applicant by electronic or regular mail of the deficiencies in the application.

(b) If the charitable trust fails to cure the deficiencies in the application within 30 days of receipt of notification as set forth in (a) above, the charitable trusts unit shall deny the application for registration. If an application is denied, the charitable trust shall not conduct operations in New Hampshire or solicit donations from New Hampshire residents.

Jus 402.06 Registration Certificate and Number.

(a) If the application for registration complies with the requirements of Jus 402.04 and Jus 402.05, the charitable trusts unit shall issue to the charitable trust a registration certificate and registration number. If a registration certificate is issued, the charitable trust may conduct operations in New Hampshire and solicit donations from New Hampshire residents in compliance with RSA 7:19-7:32-1 and Chapter Jus 400.

(b) Registration shall be effective upon issuance of the registration certificate and registration number.

PART Jus 403 NOTICE BY ESTATES AND CERTAIN CHARITABLE EXPRESS TRUSTS

Jus 403.01 Estate Notification Requirement.

(a) The administrator of any estate subject to New Hampshire probate court administration that involves a will which makes a charitable bequest shall submit to the charitable trusts unit an initial notice and a distribution notice on Form NHCT-17 “Notice as to Estates with Charitable Bequest,” effective September 2022, available online at www.doj.nh.gov/charitable-trusts/forms.htm.

(b) The administrator shall submit an initial notice within 30 days of the appointment of the administrator. The initial notice shall not be required if the director of charitable trusts has previously entered an appearance in the estate administration case. The administrator shall submit a distribution notice within 30 days of the distribution of bequests to charities.

(c) The administrator shall provide with Form NHCT-17 the following:

(1) In the initial notice, a copy of the will and the petition for estate administration; and

(2) In the distribution notice, the names of the charitable beneficiaries, the amount and date of distribution, and a copy of the final probate accounting and receipts from each charitable beneficiary.

(d) Form NHCT-17 shall be submitted to the charitable trusts unit either in hardcopy or online at www.doj.nh.gov/charitable-trusts/forms.htm.

(e) If the will creates a charitable trust, and the final distribution to charitable beneficiaries shall not be made within one year from the inception of the trustee’s power, the trust shall register with the charitable trusts unit by filing Form NHCT-11.

Jus 403.02 Non-Testamentary Trust Notification Requirements.

(a) Within 6 months from the date that the interest of charitable beneficiaries in any New Hampshire-based non-testamentary express trust becomes irrevocable, the trustee of such trust shall submit an initial notice to the charitable trusts unit. Thereafter, so long as no distributions to charitable beneficiaries are required to be made, the trustee shall provide an updated notice every 5 years from the date of the initial notice. The trustee shall provide a final notice at the time distributions to charitable beneficiaries commence. The initial, updated, and final notices shall be submitted on Form NHCT-18 “Notice of Irrevocable Charitable Interest in Trust,” effective September 2022, available online at www.doj.nh.gov/charitable-trusts/forms.htm.

(b) The trustee shall provide with Form NHCT-18 the following:

- (1) In the initial notice, a copy of the trust instrument and any amendments. Those portions of the trust instrument and amendments that do not relate to the administration of the trust or that relate to non-charitable beneficial interests may be excluded; and
 - (2) In the final notice, a copy of a statement showing the valuation of the trust if the distribution is based on a formula and documentation to verify the distributions to charitable beneficiaries.
- (d) Form NHCT-18 shall be submitted to the charitable trusts unit either in hardcopy or online at www.doj.nh.gov/charitable-trusts/forms.htm.
- (e) If under the terms of the trust, the trustee shall not complete all distributions to charitable beneficiaries within one year from inception of the trustee's power to make such distributions, the trust must register with the charitable trusts unit by filing Form NHCT-11.
- (f) Form NHCT-18 shall not be used to notify the charitable trusts unit of testamentary trusts with charitable beneficiaries.

PART Jus 404 ANNUAL REPORTS OF CHARITABLE TRUSTS

Jus 404.01 Reporting Requirement.

- (a) Any registered charitable trust described in Jus 402.01(a) and (b) shall submit to the charitable trusts unit on an annual basis Form NHCT-12 "Annual Report," effective September 2022, available on www.doj.nh.gov/charitable-trusts/forms.htm.
- (b) New Hampshire governmental entities holding donated funds in trust shall submit annual reports to the charitable trusts unit in accordance with Jus 404.06.

Jus 404.02 Form NHCT-12 Annual Report.

- (a) Charitable trusts shall complete and submit their annual reports on Form NHCT-12 "Annual Report," effective September 2022, available on www.doj.nh.gov/charitable-trusts/forms.htm.
- (b) Charitable trusts shall provide the following documents with the completed Form NHCT-12:
- (1) One of the following types of financial reports for the fiscal year for which the report is filed:
 - a. Form NHCT-12 Schedule A;
 - b. Internal Revenue Service Form 990 (with the exception of Schedule B "Schedule of Contributors");
 - c. Internal Revenue Service Form 990-EZ (with the exception of Schedule B "Schedule of Contributors");
 - d. Internal Revenue Service Form 990-PF (with the exception of Schedule B "Schedule of Contributors"); or
 - e. Probate accounting submitted to the probate court;
 - (2) Form NHCT-12 Schedule B;
 - (3) If the charitable trust is a New Hampshire-based charitable trust and is not a private foundation, Form NHCT-12 Schedule C, and the charitable trust shall provide with Schedule C the following:

- a. if any pecuniary benefit transactions listed on Schedule C amount to \$5,000 or more during the year:
 - 1. The written notice provided to the director of charitable trusts pursuant to RSA 7:19-a, II (d);
 - 2. The notice published in the newspaper pursuant to RSA 7:10-a, II (d); and
 - 3. The minutes of the meeting of the board, approving the transaction;
 - b. Any amendments to the governing documents of the charitable trust; and
 - c. If the entity was the subject of any fine, penalty, or adverse judgment, documentation setting forth the fine, penalty, or adverse judgment;
- (4) If the charitable trust has issued any charitable gift annuities, in accordance with Jus 411, Form NHCT-12 Schedule D; and
- (5) If the charitable trust has terminated, dissolved, ceased its charitable purposes in New Hampshire, or otherwise seeks to withdraw its registration with the charitable trusts unit, Form NHCT-12 Schedule E, and the charitable trust shall provide with Schedule E the following:
- a. With respect to dissolution of a New Hampshire nonprofit corporation, the secretary of state Form NP-5 “Statement of Dissolution,” available online <https://sos.nh.gov/corporation-ucc-securities/corporation/forms-and-fees/>;
 - b. With respect to dissolution of an unincorporated association, the minutes of the governing board meeting at which the vote to dissolve was approved;
 - c. With respect to the merger of a New Hampshire nonprofit corporation, the plan of merger filed with the secretary of state pursuant to RSA 292:7;
 - d. With respect to termination of an express trust, the court order, nonjudicial settlement agreement, or other document that reflects termination;
 - e. With respect to cessation of charitable activities by a nonprofit organization that has not been determined by the Internal Revenue Service to be a tax exempt organization pursuant to 26 U.S.C. § 501(c)(3) of the Internal Revenue Code, as amended, the minutes of the governing board meeting at which the vote to cease charitable activities was approved; or
 - f. With respect to the withdrawal from New Hampshire by a foreign nonprofit corporation that is registered with the New Hampshire secretary of state, the secretary of state form FNP-5 “Application for Certificate of Withdrawal of a Foreign Nonprofit Corporation,” available online <https://sos.nh.gov/corporation-ucc-securities/corporation/forms-and-fees/>;
 - g. With respect to the withdrawal from New Hampshire by a foreign nonprofit corporation that dissolved as a corporation, the dissolution document filed with the foreign nonprofit corporation’s state of incorporation; and
- (6) If the charitable trust is a New Hampshire-based organization with annual revenue that exceeds \$500,000 and is not a private foundation, one of the following financial statements:

- a. For charitable organizations with annual revenue of \$500,000 or more but less than \$2,000,000, a financial statement prepared in accordance with generally accepted accounting principles; or
- b. For charitable organizations with annual revenue of \$2,000,000 or more, an audited financial statement.

(c) A charitable trust required to file a financial statement in accordance with Jus 404.02 (b) (6) may seek an exemption from that requirement by submitting a written request to the director setting forth why the requirement constitutes a financial burden on the entity. The director shall grant such an exemption if the Director determines that the requirement would constitute a financial burden on the entity, and:

- (1) The charitable trust is in good standing as set forth in Jus 406.02 (a) (4); and
- (2) The charitable trust was not required in the prior year to submit the particular financial statement.

(d) Form NHCT-12 shall be signed under oath by the president or treasurer of the governing board or a trustee of an express trust.

(e) Form NHCT-12 may be submitted by an authorized agent if the form is electronically filed and the charitable trust submits for the applicable fiscal year Form NHCT-50 “Authorization for Electronic Filing by Agent,” pursuant to Jus 412.

(f) The completed Form NHCT-12 shall be accompanied by a non-refundable fee of \$75.00, unless previously paid with a Form NHCT-14 “Application for Extension of Time to File Annual Report,” effective September 2022, available on www.doj.nh.gov/charitable-trusts/forms.htm.

(g) Form NHCT-12 and accompanying schedules and documents shall be submitted to the charitable trusts unit either in hardcopy or online at www.doj.nh.gov/charitable-trusts/forms.htm.

Jus 404.03 Suspension of Annual Report Filing Requirement.

(a) Any charitable trust with the combined value of investments and revenues of less than \$10,000 may submit a written application for suspension of the annual report filing requirement for up to 5 years if it meets the following requirements:

- (1) The charitable trust has in the previous 10 years been in compliance with all applicable laws and rules pertaining to charitable trusts, including, but not limited to, all registration and reporting requirements;
- (2) The charitable trust has filed in a timely and complete manner at least one annual report;
- (3) The charitable trust has not in the previous 3 years and will not during the period of the suspension engage fundraising counsel or a paid solicitor in connection with solicitation of money or other property from the public; and
- (4) The charitable trust has not in the previous 3 years and will not during the period of suspension engage in bingo or other charitable gaming activities.

(b) Applications for the suspension of annual report filing requirements shall be submitted on Form NHCT-13 “Application to Suspend Annual Report Filing,” effective September 2022, available online at www.doj.nh.gov/charitable-trusts/forms.htm.

(c) Form NHCT-13 shall be signed by the president or treasurer of the governing board or a trustee if an express trust.

(d) The charitable trusts unit shall suspend for a period of not more than 5 years the filing requirements of a charitable trust that meets the requirements in Jus 404.03(a) if the director of charitable trusts determines that the interests of any beneficiaries would not be prejudiced by the suspension and that periodic reports during the period of suspension are not required for the proper supervision by the charitable trusts unit.

(e) During the period of suspension, the charitable trust shall:

(1) Refrain from engaging fundraising counsel or paid solicitors in connection with its solicitation of money or other property from the public;

(2) Refrain from operating bingo or engaging in other charitable gaming activities;

(3) File an annual report for any year in which it holds investments or earned revenue aggregating more than \$10,000; and

(4) Notify the charitable trusts unit no later than 90 days prior to the dissolution of the charitable trust or the transfer of a major asset.

(f) Any charitable trust granted a suspension under this section shall at the end of the suspension period, file an annual report covering the entire period of the suspension.

Jus 404.04 Deadline for Filing Annual Reports.

(a) The first annual report of the charitable trust shall be filed with the charitable trusts unit on or before the earlier of the following dates:

(1) The date set forth in the letter from the charitable trusts unit accompanying the registration certificate; or

(2) Four months and 15 days following the close of the charitable trust's first fiscal year following the date of issuance of the registration certificate.

(b) The charitable trust shall thereafter file its annual reports annually on or before the date 4 months and 15 days following the close of the charitable trust's fiscal year.

Jus 404.05 Form NHCT-14 Application for Extension of Time to File Annual Report.

(a) Any charitable trust that is in good standing status with the charitable trusts unit as defined in Jus 406.02(a)(4) may request an extension of the deadline to file its annual report for 6 months by submitting Form NHCT-14 "Application for Extension of Time to File Annual Report," effective September 2022, available online at www.doj.nh.gov/charitable-trusts/forms.htm.

(b) Any charitable trust seeking an extension of time to file an annual report shall file Form NHCT-14 "Application for Extension of Time to File Annual Report," effective September 2022, on or before the date on which the annual report is due to be filed with the charitable trusts unit.

(c) The completed Form NHCT-14 shall be accompanied by the annual report filing fee of \$75.00.

(d) Form NHCT-14 shall be submitted to the charitable trusts unit either in hardcopy or online at www.doj.nh.gov/charitable-trusts/forms.htm.

(e) A separate Form NHCT-14 shall be filed for each charitable trust that seeks an extension of time to file its annual report, unless Form NHCT-14 is submitted electronically on behalf of multiple charitable trusts.

(f) The Form NHCT-14 application shall be granted unless within 21 days after receipt of Form NHCT-14, the charitable trusts unit notifies the charitable trust in writing that:

- (1) The Form NHCT-14 contains errors or omissions;
- (2) The charitable trust is required to submit additional information;
- (3) The Form NHCT-14 is not timely filed; or
- (4) The Form NHCT-14 application otherwise has been denied in whole or in part.

Jus 404.06 Reporting of Trust Funds Held By Governmental Entities.

(a) In accordance with RSA 11:5-b, II, the state treasurer shall submit to the charitable trusts unit on an annual basis a list of any donated funds held in trust by the State of New Hampshire. The list shall include the name, purpose, and current dollar value of each fund.

(b) In accordance with RSA 23:21, county treasurers shall submit to the charitable trusts unit on an annual basis a list of any donated funds held in trust by the county. The list shall include the name, purpose, and current dollar value of each fund.

(c) In accordance with RSA 31:38 and Rev 1707.11 and Rev 1707.12, municipal trustees of trust funds shall submit online on an annual basis no later than 2 months after the end of the municipality's fiscal year department of revenue administration Forms MS-9, "Report of Trust and Capital Reserve Funds" and MS-10, "Report of Common Trust Fund Investments," available online at <https://www.doj.nh.gov/charitable-trusts/municipalities.htm>.

(d) In accordance with RSA 202-A:12-a, municipal library trustees shall submit to the charitable trusts unit on an annual basis no later than 2 months after the end of the municipality's fiscal year a list of any donated funds held in trust by the trustees. The list shall include the name, purpose, and current dollar value of each fund. In the alternative, municipal library trustees shall submit to the charitable trusts unit their annual financial reports.

(e) The director may require that any governmental entity holding donated funds submit to the charitable trusts unit additional information concerning the purpose, distribution, or investment of any trust funds held by the governmental entity.

PART Jus 405 REGISTER OF CHARITABLE TRUSTS

Jus 405.01 Register. The charitable trusts unit shall maintain a register of charitable trusts in accordance with RSA 7:22.

Jus 405.02 Contents of the Register.

(a) The contents of the register described in Jus 405.01 shall include, in paper, microfiche, or electronic format, the following documents pertaining to each charitable trust:

- (1) Any application for registration in accordance with Jus 402 or notification in accordance with Jus 403 and accompanying documents submitted to the charitable trusts unit;

- (2) At least the 3 most recent years of any annual reports submitted to the charitable trusts unit in accordance with RSA 7:28 and Jus 404.02;
 - (3) At least the 3 most recent years of any financial statements submitted in accordance with RSA 7:28, III and Jus 404.02(b)(6);
 - (4) Any court decree pertaining to the charitable trust in any case in which the director or the attorney general was a party; and
 - (5) Any administrative action taken by the director or the attorney general pertaining to the charitable trust.
- (b) The contents of the register shall not include:
- (1) Information pertaining to any of the following agencies or organizations that are exempt by law from the registration and reporting requirements under RSA 7:19, I:
 - a. The United States, any state, territory or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico or any of their agencies or subdivisions; and
 - b. Religious organizations;
 - (2) With the exception of the documents described in Jus 405.02(a), records, documents, and materials created or obtained by the charitable trusts unit during the course of the director's duties to supervise, investigate, and enforce charitable trusts pursuant to RSA 7:19, including but not limited to, any and all records and materials pertaining to investigations of charitable trusts;
 - (3) Documents and materials that are legally privileged;
 - (4) Documents reflecting home addresses, personal electronic mail addresses, home telephone numbers, and other personal information of members of the governing boards, trustees, witnesses, employees, volunteers, or other individuals; and
 - (5) Documents and materials that are not subject to public disclosure under any applicable provision of RSA 91-A or RSA 91-C.

Jus 405.03 Public Inspection of the Register. In responding to requests for inspection of the register, the charitable trusts unit shall comply with all applicable provisions of RSA 91-A and RSA 91-C.

PART Jus 406 DIRECTORIES

Jus 406.01 Electronic Publication. In accordance with RSA 7:32-a, the director shall prepare and cause to be published on the website for the department of justice a directory of charitable trusts.

Jus 406.02 Directory of Charitable Trusts.

- (a) The online directory of charitable trusts described in Jus 406.01 shall include the following information:
- (1) Name of each charitable trust registered with the charitable trusts unit;
 - (2) Address of the charitable trust on file with the charitable trusts unit;
 - (3) Charitable trusts unit registration number; and

(4) Status of the charitable trust, as one of the following:

- a. “Good standing,” which shall mean that the charitable trust is properly registered, is not more than 6 months in arrears in its submission of complete annual reports, has otherwise complied with statutory and rule requirements, and is not currently under investigation or subject to any form of sanction, revocation, or penalty by the charitable trusts unit or by a court or regulatory agency of the United States government, New Hampshire, or another state;
- b. “Not in good standing,” which shall mean that the charitable trust is not properly registered, is more than 6 months in arrears in its submission of complete annual reports, has otherwise failed to comply with statutory or rule requirements, currently is under investigation, or is subject to sanction, revocation, or penalty by the charitable trusts unit or by a court or regulatory agency of the United States government, New Hampshire, or another state; or
- c. “Suspended from filing requirements,” which shall mean that the charitable trust has filed an application to suspend for a period of years its annual report requirement pursuant to RSA 7:28, III and Jus 404.03, and the application has been granted.

(b) The fact that a charitable trust is listed in the directory in good standing shall not be proof that the entity is in full compliance with all applicable laws, rules, and regulations.

PART Jus 407 WITHDRAWAL

Jus 407.01 Notice of Withdrawal. Any charitable trust that seeks to withdraw its registration with the charitable trusts unit because it has dissolved, merged with another entity, terminated, ceased charitable activities, or in the case of a foreign nonprofit corporation, withdrawn from charitable activities in New Hampshire, shall complete and submit to the charitable trusts unit either in hard copy or electronic format a final Form NHCT-12 “Annual Report,” effective September 2022, including Schedule E in accordance with Jus 404.02.

Jus 407.02 Foreign Nonprofit Corporations.

(a) Any foreign nonprofit corporation that seeks to withdraw its registration because it has withdrawn from charitable fundraising and charitable activities in New Hampshire, may, in lieu of filing a final Form NHCT-12 in accordance with Jus 407.01, file Form NHCT-16 “Withdrawal of Registration of Foreign Nonprofit Corporation,” effective September 2022, available online at www.doj.nh.gov/charitable-trusts/forms.htm, provided that the foreign nonprofit corporation timely filed with the charitable trusts unit a Form NHCT-12 within 6 months of filing Form NHCT-16.

(b) Any foreign nonprofit corporation that is registered with the New Hampshire secretary of state and withdraws from New Hampshire as a foreign nonprofit corporation shall provide with Form NHCT-16 New Hampshire secretary of state Form FNP-5 “Application for Certificate of Withdrawal of a Foreign Nonprofit Corporation,” available online <https://sos.nh.gov/corporation-ucc-securities/corporation/forms-and-fees/domestic-and-foreign-nonprofit-corporation/>.

(c) Any foreign nonprofit corporation that is not registered with the New Hampshire secretary of state that seeks to withdraw from registration because it is dissolving as a corporation shall file with Form NHCT-16 the dissolution document filed with the foreign nonprofit corporation’s state of incorporation.

Jus 407.03 Deadline for Filing. The notice of withdrawal pursuant to Jus 407.01 shall be submitted to the charitable trusts unit on or before the deadline for filing the charitable trust's annual report in accordance with Jus 404.04.

PART Jus 408 FUND RAISING COUNSEL

Jus 408.01 Registration Requirement.

(a) In accordance with RSA 7:28-b, fund raising counsel shall register with the charitable trusts unit prior to performing services in New Hampshire on behalf of a charitable trust and thereafter on an annual basis on or before the anniversary date of the initial registration by submitting Form NHCT-20 "Application for Registration or Renewal of Fund Raising Counsel," effective September 2022, available on www.doj.nh.gov/charitable-trusts/forms.htm. Registration shall be effective for one year from the date it is accepted by the charitable trusts unit.

(b) Fund raising counsel shall supply with Form NHCT-20 the following:

- (1) With the initial application, articles of incorporation or other formation document with any amendments; and
- (2) A detailed explanation or documentation of any action taken by a state or federal agency or court to deny, suspend, revoke, or enjoin registration of fundraising counsel.

(c) Form NHCT-20 shall be signed under oath by a duly authorized representative of the fund raising counsel. Form NHCT-20 may be submitted by an authorized agent if the form is electronically filed and the fund raising counsel submits for the applicable year Form NHCT-50 "Authorization for Electronic Filing by Agent," pursuant to Jus 412.

(d) The completed Form NHCT-20 shall be accompanied by a non-refundable fee of \$150.00.

(e) Form NHCT-20 shall be submitted to the charitable trusts unit either in hardcopy or online at www.doj.nh.gov/charitable-trusts/forms.htm.

Jus 408.02 Notice of Fundraising Counsel Contract.

(a) Prior to performing services in New Hampshire on behalf of a charitable trust, fund raising counsel and the charitable trust for which fund raising counsel intends to perform services shall enter into a contract that complies with RSA 7:28-b, I and II.

(b) Prior to performing services in New Hampshire on behalf of a charitable trust, fund raising counsel shall file with the charitable trusts unit Form NHCT-23 "Notice of Fundraising Counsel Contract," effective September 2022, available at <https://www.doj.nh.gov/charitable-trusts/forms.htm>.

(c) Fund raising counsel shall supply with Form NHCT-23 the following:

- (1) The written contract between fund raising counsel and the charitable trust for which fund raising counsel intends to perform services; and
- (2) Any amendments to the written contract between fund raising counsel and the charitable trust for which fund raising counsel intends to perform services.

(d) Form NHCT-23 shall be signed by a duly authorized representative of fund raising counsel.

Jus 408.03 Acceptance by the Charitable Trusts Unit. Fund raising counsel shall not begin performing services in New Hampshire until after registration in accordance with Jus 408.01 and the notice of fund raising counsel contract in accordance with Jus 408.02 are accepted by the charitable trusts unit. The registration and notice of fund raising contract shall be deemed accepted 10 business days after receipt by the charitable trusts unit unless the charitable trusts unit notifies fund raising counsel of any deficiencies.

Jus 408.04 Records Retention. Fund raising counsel shall maintain for 3 years after completion of each solicitation campaign and make available to the charitable trusts unit upon request the following:

(a) Written accounting(s) provided by fund raising counsel to the charitable trust in accordance with RSA 7:28-b, II (c);

(b) Record of all contributions at any time in the custody of fund raising counsel, including the name and address of each contributor and the date and amount of each contribution; and

(c) The location and account number of all bank or other financial institution accounts in which the fund raising counsel deposited revenue from each solicitation campaign.

PART Jus 409 PAID SOLICITOR

Jus 409.01 Registration Requirement. Any paid solicitor shall register with the charitable trusts unit prior to performing services in New Hampshire on behalf of a charitable trust or police, law enforcement, or firefighters' association and thereafter on an annual basis on or before the anniversary date of the initial registration by submitting Form NHCT-21 "Application for Registration or Renewal of Paid Solicitor," effective September 2022, available on www.doj.nh.gov/charitable-trusts/forms.htm. Registration shall be effective for one year from the date the registration is accepted by the charitable trusts unit.

Jus 409.02 Form NHCT-21 Application for Registration or Renewal of Paid Solicitor.

(a) Any paid solicitor shall supply with Form NHCT-21 the following:

(1) With the initial application, articles of incorporation or other formation document with any amendments; and

(2) A detailed explanation or documentation of any action taken by a state or federal agency or court to deny, suspend, revoke, or enjoin registration of the paid solicitor.

(b) Form NHCT-21 shall be signed under oath by a duly authorized representative of the paid solicitor. Form NHCT-21 may be submitted by an authorized agent if the form is electronically filed and the paid solicitor submits for the applicable year Form NHCT-50 "Authorization for Electronic Filing by Agent," pursuant to Jus 412.

(c) The completed Form NHCT-21 shall be accompanied by a non-refundable fee of \$500.00.

(d) The paid solicitor shall obtain a paid solicitor surety bond in the amount of \$20,000.00 that is in effect for the period of registration and submit with the completed Form NHCT-21 one of the following:

(1) A copy of the bond executed by a surety company; or

(2) A bond continuation certificate executed by a surety company.

(e) Form NHCT-21 shall be submitted to the charitable trusts unit either in hardcopy or online at www.doj.nh.gov/charitable-trusts/forms.htm.

(f) Any paid solicitor that intends to use an “automatic telephone dialing system” as defined in RSA 359-E:1 for “solicitation” as defined in RSA 359-E:1, II shall also register with the consumer protection and antitrust bureau of the New Hampshire department of justice.

Jus 409.03 Form NHCT-25 Solicitation Notice

(a) Prior to each solicitation campaign and annually thereafter during the course of the campaign on behalf of a charitable trust or police, law enforcement, or firefighters’ association, any paid solicitor shall complete and submit to the charitable trusts unit a completed Form NHCT-25 “Solicitation Notice,” effective September 2022, available on www.doj.nh.gov/charitable-trusts/forms.htm.

(b) Any paid solicitor shall supply with Form NHCT-25 the written contract between the paid solicitor and the charitable trust or police, law enforcement, or firefighters’ association.

(c) The contract between the paid solicitor and the charitable trust or police, law enforcement, or firefighters’ association shall comply with RSA 7:28-c, V.

(d) Form NHCT-25 shall be signed under oath by a duly authorized representative of the paid solicitor. Form NHCT-25 may be submitted by an authorized agent of the paid solicitor if the form is electronically filed and the paid solicitor submits for the applicable year Form NHCT-50 “Authorization for Electronic Filing by Agent,” pursuant to Jus 412.

(e) An authorized representative of the charitable trust or police, law enforcement, or firefighters’ association on whose behalf the solicitation campaign will be conducted shall either:

(1) Sign the Form NHCT-25 that is also signed by the paid solicitor; or

(2) Sign in ink and submit to the charitable trusts unit Form NHCT-27 “Solicitation Notice or Joint Financial Report Certification,” effective September 2022, available online at www.doj.nh.gov/charitable-trusts/forms.htm, along with the Form NHCT-25 signed by an authorized representative of the paid solicitor.

(f) The completed Form NHCT-25 shall be accompanied by a non-refundable fee of \$200.00.

(g) Form NHCT-25 shall be submitted to the charitable trusts unit either in hardcopy or online at www.doj.nh.gov/charitable-trusts/forms.htm.

Jus 409.04 Acceptance by the Charitable Trusts Unit. Any paid solicitor shall not begin performing services in New Hampshire until after registration and the solicitation notice are accepted by the charitable trusts unit. The registration and solicitation notice shall be deemed accepted 10 business days after receipt by the charitable trusts unit unless the charitable trusts unit notifies fund raising counsel of any deficiencies.

Jus 409.05 Form NHCT-26 Joint Financial Report.

(a) A paid solicitor shall file with the charitable trusts unit Form NHCT-26 “Joint Financial Report,” effective September 2022, available online at www.doj.nh.gov/charitable-trusts/forms.htm, within 90 days after a solicitation campaign has been completed.

(b) If the solicitation campaign extends over more than a 12 month period, in addition to filing Form NHCT-26 upon completion of the campaign, the paid solicitor shall also file a Form NHCT-26 “Joint Financial Report,” on an annual basis on the anniversary date of the commencement of the campaign.

(c) Form NHCT-26 shall be signed under oath by a duly authorized representative of the paid solicitor. Form NHCT-26 may be submitted by an authorized agent of the paid solicitor if the form is electronically filed and the paid solicitor submits for the applicable year Form NHCT-50 “Authorization for Electronic Filing by Agent,” pursuant to Jus 412.

(d) An authorized representative of the charitable trust or police, law enforcement, or firefighters’ association on whose behalf the solicitation campaign was conducted shall either:

(1) Sign the Form NHCT-26 that is also signed by the paid solicitor; or

(2) Sign in ink and submit to the charitable trusts unit Form NHCT-27 “Solicitation Notice or Joint Financial Report Certification,” effective September 2022, available online at www.doj.nh.gov/charitable-trusts/forms.htm, along with the Form NHCT-26 signed by a representative of the paid solicitor.

(e) Form NHCT-26 shall be submitted to the charitable trusts unit either in hardcopy or online at www.doj.nh.gov/charitable-trusts/forms.htm.

Jus 409.06 Changes to Information. The paid solicitor shall report in writing to the charitable trusts unit within 7 calendar days any material changes to information filed with the charitable trusts unit.

Jus 409.07 Records Retention. The paid solicitor shall maintain for 3 years after completion of each solicitation campaign and make available to the charitable trusts unit upon request the records described in RSA 7:28-c, VIII.

PART Jus 410 CHARITABLE SALES PROMOTION

Jus 410.01 Contract. Any charitable trust that agrees to permit a commercial co-venturer to conduct a charitable sales promotion on its behalf shall enter into a written agreement with the commercial co-venturer that complies with the requirements set forth in RSA 7:28-d, II.

Jus 410.02 Notice. Any charitable trust that agrees to permit a charitable sales promotion to be conducted by a commercial co-venturer on its behalf shall file with the charitable trusts unit Form NHCT-22 “Notice of Charitable Sales Promotion,” effective September 2022, available online at www.doj.nh.gov/charitable-trusts/forms.htm prior to the date on which the charitable sales promotion commences.

Jus 410.03 Form NHCT-22 Notice of Charitable Sales Promotion.

(a) Any charitable trust that agrees to permit a charitable sales promotion to be conducted by a commercial co-venturer on its behalf shall submit to the charitable trusts unit with Form NHCT-22 a copy of the written agreement required by RSA 7:28-d, II.

(b) Form NHCT-22 shall be submitted to the charitable trusts unit either in hardcopy or online at www.doj.nh.gov/charitable-trusts/forms.htm.

Jus 410.04 Final Accounting. The charitable trust shall prepare, maintain for 3 years, and make available to the charitable trusts unit upon request, a final accounting of any charitable sales promotion that includes the following information:

(a) Gross sales volume related to the charitable sales promotion;

(b) Calculation of the amount payable to the charitable trust;

- (c) Revenue received by the charitable trust; and
- (d) An itemized list of expenses deducted from the amount payable to the charitable trust, if applicable.

PART Jus 411 CHARITABLE GIFT ANNUITIES

Jus 411.01 Initial Notification Required.

(a) Any charitable trust that issues qualified charitable gift annuities shall notify the director within 90 days after the charitable trust enters into its first qualified charitable gift annuity agreement by filing with the charitable trusts unit one of the following:

- (1) Form NHCT-15 “Charitable Gift Annuity Certification,” effective September 2022, available online at www.doj.nh.gov/charitable-trusts/forms.htm; or
 - (2) Schedule D of Form NHCT-12 “Annual Report,” effective September 2022, available online at www.doj.nh.gov/charitable-trusts/forms.htm.
- (b) Form NHCT-15 shall be signed by the president or chief executive officer of the charitable trust.
- (c) The notice required in Jus 411.01(a) shall be submitted to the charitable trusts unit either in hardcopy or online at www.doj.nh.gov/charitable-trusts/forms.htm.

Jus 411.02 Recertification Required.

(a) Any charitable trust that issues qualified charitable gift annuities shall annually recertify that the annuities issued by the charitable trust shall be limited to qualified charitable gift annuities as defined in RSA 403-E:1,V by filing with the charitable trusts unit either Form NHCT-15 or Schedule D of Form NHCT-12, available online at www.doj.nh.gov/charitable-trusts/forms.htm.

(b) The recertification required in Jus 411.02(a) shall be submitted to the charitable trusts unit either in hardcopy or online at www.doj.nh.gov/charitable-trusts/forms.htm.

PART Jus 412 ELECTRONIC FILING BY AUTHORIZED AGENT

Jus 412.01 Authorized Agent. Any charitable trust, fundraising counsel, or paid solicitor may authorize an individual or entity to serve as its authorized agent for the purposes of electronically filing on its behalf Form NHCT-11, Form NHCT-12, Form NHCT-20, Form NHCT-21, Form NHCT-25, or Form NHCT-26 by filing a completed Form NHCT-50 “Authorization for Electronic Filing by Agent,” effective September 2022, available online at www.doj.nh.gov/charitable-trusts/forms.htm.

Jus 412.02 Form NHCT-50 Authorization for Electronic Filing by Agent.

- (a) Form NHCT-50 shall be signed in ink on behalf of a charitable trust by one of the following:
 - (1) A trustee if the charitable trust is an express trust; or
 - (2) The president or treasurer of the governing board.
- (b) Form NHCT-50 shall be signed in ink on behalf of fundraising counsel or a paid solicitor by an officer of the fundraising counsel or paid solicitor.

PART Jus 413 INVESTIGATIONS

Jus 413.01 Time and Scope of Investigations. In accordance with RSA 7:24, the director shall conduct such investigations as the director deems necessary to fulfill the director's responsibilities in connection with the supervision, administration, and enforcement of charitable trusts, charitable solicitations, and charitable sales promotions.

Jus 413.02 Notice to Attend Investigation.

(a) Any notice to attend investigation issued by the director pursuant to RSA 7:24 or RSA 7:25 shall include the following information:

- (1) Date, time, and place of the investigation;
- (2) Nature of the investigation;
- (3) Statutory authority for the investigation;
- (4) Any records, documents, or other materials that the recipient of the notice is required to produce; and
- (5) Consequences of failure to attend the investigation or to produce the records identified in the notice.

(b) Any notice to attend investigation issued to a financial institution or creditor shall comply with RSA 359-C:4 and RSA 359-C:8.

(c) Any testimony taken and documents produced at an investigation pursuant to RSA 7:24 and RSA 7:25 shall be submitted under oath, unless waived by the director.

(d) Any investigation conducted pursuant to RSA 7:24 and RSA 7:25 shall be recorded if the director determines that further investigation is likely. The charitable trusts unit shall make available a copy of the recording to any participant at the participant's request and expense.

(e) Any investigation conducted pursuant to RSA 7:24 and RSA 7:25 may be held in person or remotely by telephone or video conference as determined by the director.

(f) Any recipient of the notice to attend investigation may make an oral or written request that the investigation be postponed to a later date or time, and such request shall be granted if the director determines that good cause has been demonstrated. Good cause shall include the unavailability of the recipient or his or her attorney or the unavailability of any records requested in the notice.

Jus 413.03 Investigative Records Not Subject to Public Inspection. Information and records obtained during investigations conducted by the charitable trusts unit shall not be subject to public inspection under RSA 7:23.

PART Jus 414 REVOCATION OF REGISTRATION

Jus 414.01 Revocation of Registration.

(a) The director shall revoke the registration of a charitable trust, fund raising counsel, or paid solicitor if the director determines, after an investigation conducted pursuant to RSA 7:24 or RSA 7:25, that the registered charitable trust, fund raising counsel, or paid solicitor has engaged in any material acts or practices declared unlawful under RSA 7:28-f. The director shall give notice of the revocation by certified

mail, return receipt requested, to the charitable trust and its directors or trustees, fund raising counsel, or paid solicitor at the most current addresses on file with the charitable trusts unit.

(b) The director shall revoke the registration of a charitable trust, fundraising counsel, or paid solicitor if its registration has been revoked in any state or has been ordered by a court or governmental agency to cease soliciting contributions within any state. The director shall give notice of the revocation by certified mail, return receipt requested, to the charitable trust and its directors or trustees, fund raising counsel, or paid solicitor at the most current addresses on file with the charitable trusts unit.

(c) Following revocation, a charitable trust, fundraising counsel, or paid solicitor shall refrain from conducting operations, soliciting funds, and otherwise engaging in fundraising or fundraising services in New Hampshire.

Jus 414.02 Director's Authority. Nothing in these rules adopted by the department of justice shall limit or prevent the director from taking any action consistent with the director's authority under RSA 7:19 through RSA 7:32-l.

PART Jus 415 COMMUNITY BENEFITS PLAN FOR HEALTH CARE ORGANIZATIONS

Jus 415.01 Annual Submission of Community Benefits Plan. Within 90 days of the start of its fiscal year, health care charitable trusts shall complete and submit online Form NHCT-31 "Community Benefits Plan Report," effective September 2022, available at www.doj.nh.gov/charitable-trusts/forms.htm.

Jus 415.02 Community Needs Assessment. The health care charitable trust shall supply with Form NHCT-31 "Community Benefits Plan Report" any community needs assessment that it completed alone or in conjunction with other health care charitable trusts within the previous year.

Jus 415.03 Form NHCT-33 Extension of Time to File Community Benefits Plan Report.

(a) Any health care charitable trust may request an extension of the deadline to file its annual community benefits plan report for up to 12 months by submitting a Form NHCT-33 "Application for Extension of Time to File Community Benefits Plan Report," effective September 2022, available online at www.doj.nh.gov/charitable-trusts/forms.htm.

(b) Any health care charitable trust seeking an extension of the deadline to file its annual community benefits plan report shall file a Form NHCT-33 "Application for Extension of Time to File Community Benefits Plan Report," on or before the date on which the annual community benefits plan report is due to be filed with the charitable trusts unit.

(c) Form NHCT-33 "Application for Extension of Time to File Community Benefits Plan Report" shall be submitted to the charitable trusts unit either in hardcopy or online at www.doj.nh.gov/charitable-trusts/forms.htm.

(d) The Form NHCT-33 application shall be granted unless within 21 days after receipt of Form NHCT-33, the charitable trusts unit notifies the health care charitable trust that the Form NHCT-33 is not timely filed or the application otherwise has been denied due to noncompliance with applicable statutes or rules.

Jus 415.04 Exemption from Community Benefits Plan Requirement.

(a) Any health care charitable trust for which compliance with the annual community benefits plan reporting requirement would be a financial or administrative burden may request that the director grant an

exemption for 3 years by completing and filing Form NHCT-32 “Community Benefits Plan Application for Exemption,” effective September 2022, available online at www.doj.nh.gov/charitable-trusts/forms.htm.

(b) The director of charitable trusts shall grant an exemption from the annual community benefits plan reporting requirement for 3 years if the health care charitable trust demonstrates that it meets the following criteria:

- (1) The health care charitable trust serves a specifically defined and very limited segment of the population and provides no health care services to the community at large;
- (2) The cash assets of the health care charitable trust are valued at less than \$100,000.00, and:
 - a. The financial resources of the health care charitable trust would be negatively impacted by the obligation to prepare annual community benefits plans; and
 - b. It is not possible to enter into a collaboration with another health care charitable trust for the purpose of preparing a community benefits plan; or
- (3) The health care charitable trust does not have sufficient paid staff, volunteers, or other resources available to prepare the community benefits plan, and:
 - a. It does not have sufficient financial resources available to engage the services of an outside entity for the purposes of preparing the community benefits plan; and
 - b. It is not possible to enter into a collaboration with another health care charitable trust for the purpose of preparing a community benefits plan.

(c) Any health care charitable trust seeking an exemption under Jus 415.04 (a) shall supply with Form NHCT-32 “Community Benefits Plan Application for Exemption” the following:

- (1) If the health care charitable trust seeks an exemption under Jus 415.04(b)(1), copies of the health care charitable trust’s mission statement, articles of agreement, bylaws, and other governing documents;
- (2) If the health care charitable trust seeks an exemption under Jus 415.04(b)(2):
 - a. Copies of the health care charitable trust’s mission statement, articles of agreement, bylaws, and other governing documents; and
 - b. Copy of the health care charitable trust’s Internal Revenue Service Form 990, Internal Revenue Service Form 990-EZ, audited financial statement, or other financial report for the most recent accounting period;
- (3) If the health care charitable trust seeks an exemption under Jus 415.04(b)(3):
 - a. Copies of the health care charitable trust’s mission statement, articles of agreement, bylaws, and other governing documents;
 - b. Copy of the health care charitable trust’s Internal Revenue Service Form 990, Internal Revenue Service Form 990-EZ, audited financial statement, or other financial report for the most recent accounting period; and
 - c. An organizational chart showing all paid full and part-time positions.

(d) Form NHCT-32 “Community Benefits Plan Application for Exemption” shall be signed by the president or treasurer under penalty of false written statement in accordance with RSA 641:3 and RSA 641:8.

(e) Form NHCT-32 “Community Benefits Plan Application for Exemption” shall be submitted to the charitable trusts unit online at www.doj.nh.gov/charitable-trusts/forms.htm.

PART Jus 416 DONATED CONSERVATION EASEMENTS

Jus 416.01 Amendment to or Termination of Donated Conservation Easement. Any requests for review of an amendment to or termination of a donated conservation easement shall be submitted to the director not less than 60 days prior to the effective date of the amendment or termination.

Jus 416.02 Request for Review of Donated Conservation Easement Amendment or Termination. Any request for review by the director of any amendments to or terminations of a donated conservation easement shall include the following:

- (a) Original easement deed and any previously executed amendments thereto;
- (b) Proposed amendment to or termination of the easement deed; and
- (c) Narrative describing how the amendment complies with the following principles:
 - (1) Clearly serves the public interest and is consistent with the easement holder’s mission;
 - (2) Complies with all applicable federal, state, and local laws;
 - (3) Does not jeopardize the easement holder’s tax exempt status or status as a charitable organization under either federal or state law, if the easement holder is a land trust or other charitable organization;
 - (4) Does not result in a “pecuniary benefit transaction” as defined in RSA 7:19-a, I (c) or other conflict of interest involving a board member, trustee, officer, or key employee;
 - (5) Is consistent with the conservation purpose(s) and intent of the easement;
 - (6) Is consistent with the documented intent of the donor, grantor, and any direct funding source; and
 - (7) Has a net beneficial or neutral effect on the relevant conservation values or attribute protected by the easement.

Jus 416.03 Additional Information. The director shall require the submission of additional information or documentation when necessary to complete the review.

Jus 416.04 Review by the Director.

- (a) The director shall review the request for review.
- (b) Based upon the extent to which the amendment complies with the principles set forth in Jus 416.02, the director shall issue a written determination as to whether to:
 - (1) Take no action to oppose the easement amendment or termination;
 - (2) Take no action to oppose the easement amendment or termination subject to particular conditions;

- (3) Oppose the easement amendment or termination; or
- (4) Require court approval of the easement amendment or termination.

PART Jus 417 WAIVER OF RULES

Jus 417.01 Waiver of Rules.

(a) The director, upon the director’s own initiative or upon request by a charitable trust, fundraising counsel, or paid solicitor, shall waive any requirement of this chapter if such waiver does not contradict the objective or intent of the rule and:

- (1) Applying the rule would cause confusion or would be misleading to the public;
- (2) The rule is in whole or in part inapplicable to the given circumstances;
- (3) There are specific circumstances unique to the situation such that strict compliance with the rule would be onerous without promoting the objective or intent of the rule; or
- (4) Any other similar extenuating circumstances exist such that application of an alternative standard or procedure better promotes the objective or intent of the rule.

(b) No requirement prescribed by statute shall be waived unless expressly authorized by law.

(c) Any person or entity seeking a waiver shall submit to the director a written request specifying the nature and duration of the waiver sought.

(d) A request for a waiver shall specify the basis for the waiver and proposed alternative, if any.

APPENDIX

Rule Number	State Statute Implemented
Jus 401.01	RSA 7:22
Jus 401.02	RSA 403-E:1, II
Jus 401.03	RSA 7:22
Jus 401.04	RSA 7:21, II (b)
Jus 401.05	RSA 7:22
Jus 401.06	RSA 7:22
Jus 401.07	RSA 7:21, I
Jus 401.08	RSA 7:21, II
Jus 401.09	RSA 7:20; RSA 7:22; RSA 21-M:11, II (c)
Jus 401.10	RSA 7:32-d, I
Jus 401.11	RSA 7:21, III
Jus 401.12	RSA 7:32-d, II
Jus 401.13	RSA 7:32-d, IV
Jus 401.14	RSA 7:22
Jus 401.15	RSA 7:32-f
Jus 401.16	RSA 7:20; RSA 7:22
Jus 401.17	RSA 7:22
Jus 401.18	RSA 7:22
Jus 401.19	RSA 7:22
Jus 401.20	RSA 7:21, V

Jus 401.21	RSA 7:22
Jus 401.22	RSA 7:22
Jus 401.23	RSA 7:32-d, V
Jus 401.24	RSA 7:22
Jus 401.25	RSA 7:21, VI
Jus 401.26	RSA 7:19-a, I (c)
Jus 401.27	RSA 292:2-a
Jus 401.28	RSA 547:3
Jus 401.29	RSA 403-E:1, V
Jus 401.30	RSA 7:22
Jus 401.31	RSA 7:19, I; 7:22
Jus 401.32	RSA 7:21, VII
Jus 401.33	RSA 7:22
Jus 401.34	RSA 7:21, VIII
Jus 402.01	RSA 7:19
Jus 402.02	RSA 7:22
Jus 402.03	RSA 7:22; RSA 7:28, I
Jus 402.04	RSA 7:22; RSA 7:28, I; RSA 7:28, III; RSA 7:28-a, I
Jus 402.05	RSA 7:22; RSA 7:28, III
Jus 402.06	RSA 7:22
Jus 403.01	RSA 7:22
Jus 403.02	RSA 7:22; RSA 7:28, I; RSA 7:28-a, I
Jus 404.01	RSA 7:28, II; RSA 7:28, III
Jus 404.02	RSA 7:28, II; RSA 7:28, III; RSA 7:28-a, II
Jus 404.03	RSA 7:28, III
Jus 404.04	RSA 7:28, II; RSA 7:28, III
Jus 404.05	RSA 7:28, III; RSA 7:28-a, II
Jus 404.06	RSA 11:5-b, II; RSA 23:21; RSA 31:25-c; RSA 31:33; RSA 31:38; RSA 202-A:12-a
Jus 405.01	RSA 7:19, I
Jus 405.02	RSA 7:19, I; RSA 7:22
Jus 405.03	RSA 7:22; RSA 7:23
Jus 406.01	RSA 7:22; RSA 7:32-a
Jus 406.02	RSA 7:22; RSA 7:32-a
Jus 406.03	RSA 7:22; RSA 7:32-a
Jus 407.01	RSA 7:22; RSA 7:28
Jus 407.02	RSA 7:22; RSA 7:28
Jus 407.03	RSA 7:22; RSA 7:28
Jus 408.01	RSA 7:28-b, II; RSA 7:28-b, III
Jus 408.02	RSA 7:28-b, I
Jus 408.03	RSA 7:28-b, IV
Jus 408.04	RSA 7:28-b, II (c); RSA 7:28-b, II (e)
Jus 409.01	RSA 7:28-c, II; RSA 7:28-c, III
Jus 409.02	RSA 7:28-c, II; RSA 7:28-c, III
Jus 409.03	RSA 7:28-c, IV; RSA 7:28-c, V
Just 409.04	RSA 7:28-c, XI
Jus 409.05	RSA 7:28-c, VII
Jus 409.06	RSA 7:28-c, X
Jus 409.07	RSA 7:28-c, VIII

Jus 410.01	RSA 7:28-d, II
Jus 410.02	RSA 7:22; RSA 7:28-d, I
Jus 410.03	RSA 7:22; RSA 7:28-d, I
Jus 410.04	RSA 7:22; RSA 7:28-d, III
Jus 411.01	RSA 403-E:3, II
Jus 411.02	RSA 403-E:3, II
Jus 412.01	RSA 7:22
Jus 412.02	RSA 7:22
Jus 413.01	RSA 7:24
Jus 413.02	RSA 7:25
Jus 413.03	RSA 7:23
Jus 414.01	RSA 7:22; RSA 7:28-f, II
Jus 414.02	RSA 7:19 through RSA 7:31-l
Jus 415.01	RSA 7:32-g
Jus 415.02	RSA 7:32-e; RSA 7:32-g
Jus 415.03	RSA 7:32-g, II
Jus 415.04	RSA 7:32-j
Jus 416.01	RSA 7:22
Jus 416.02	RSA 7:22
Jus 416.03	RSA 7:22
Jus 416.04	RSA 7:22
Jus 417	RSA 7:22