State laws for charitable organizations

New Hampshire

This profile is part of a set of 51 profiles, including all U.S. states and the District of Columbia, which outlines state laws, regulations, and requirements that apply to charitable organizations. It covers six areas and highlights ways in which state laws differ from federal laws governing charitable organizations.

Formation, Elections, Operation, and Dissolution

Nonprofit Corporations

Chapter 292 of Title XXVII: Voluntary Corporations and Associations.
NH ST T. XXVII, Ch. 292.

For corporate governance issues not specifically covered by Chapter 292, look to Chapter 295 of Title XXVII.

Nonprofit Unincorporated Associations

Unincorporated societies or lodges of fraternal organizations shall be corporations so far as may be necessary to take, hold, manage and use any gift or grant made to them as such and any gifts or grants heretofore made. N.H. Rev. Stat. Ann. § 292:12.

If a donation, grant or gift be made to any unincorporated association, society, foundation or similar organization, it shall be a corporation so far as may be necessary to take, hold, manage, use and convey any such donation, gift or grant made to it. N.H. Rev. Stat. Ann. § 292:14.

Election of Directors


The board of directors of a charitable nonprofit corporation shall have at least 5 voting members, who are not of the same immediate family or related by blood or marriage. No employee of a charitable nonprofit corporation shall hold the position of chairperson or presiding officer of the board. This section shall not apply to those nonprofit corporations in existence on August 10, 1996, until one year after August 10, 1996, nor to any organization qualified as a private foundation under the applicable provisions of the United States Internal Revenue Code, nor to religious organizations, churches, or the integrated auxiliaries thereof or to conventions or associations of churches. N.H. Rev. Stat. Ann. § 292:6-a

Director Term

No relevant statute found.

Meeting and Quorum Requirements


Officer Requirements

Such corporations may adopt bylaws, not repugnant to the laws of this state, to provide for the election, removal and retiring of members; to fix the times and places of holding meetings and the manner of calling and conducting them; to regulate the number of officers, the manner of choosing them, their tenure of office and their powers and duties; and to promote the objects of the corporation; and they may alter and amend such bylaws. N.H. Rev. Stat. Ann. § 295:5

Officer Term

No relevant statute found.

Dissolution

Any such corporation, or one-fourth of the members thereof, may apply by petition to the superior court, or in the case of a charitable corporation to the superior court or the probate court, in the county in which the corporation is located, for a decree of dissolution, or for such other relief as may be just; and the court, after due notice to all parties interested and a hearing, may decree that the corporation be dissolved, subject to such limitations and conditions as justice may require. The attorney general shall be notified and given an opportunity to be heard in all cases involving charitable corporations. N.H. Rev. Stat. Ann. § 292:9.

Except as provided in paragraph II, whenever two-thirds of the membership or voting stock or both of any such corporation shall have voted to dissolve the corporation, then said corporation shall be automatically dissolved upon the filing with the secretary of state of a statement signed under the penalties of perjury by the treasurer and a majority of the directors or trustees setting forth (a) that at least two-thirds of the members or stockholders voted dissolution; and (b) the plan for distribution of the corporation’s assets and satisfaction of its obligations. N.H. Rev. Stat. Ann. § 292:10-a.
Duties, Indemnification, and Interested Transactions

Director Duties
No relevant statute found.

Officer Duties
Such corporations may adopt bylaws, not repugnant to the laws of this state, to provide for the election, removal and retiring of members; to fix the times and places of holding meetings and the manner of calling and conducting them; to regulate the number of officers, the manner of choosing them, their tenure of office and their powers and duties; and to promote the objects of the corporation; and they may alter and amend such bylaws. N.H. Rev. Stat. Ann. § 295:5

Board Independence Requirements
The board of directors of a charitable nonprofit corporation shall have at least 5 voting members, who are not of the same immediate family or related by blood or marriage. No employee of a charitable nonprofit corporation shall hold the position of chairperson or presiding officer of the board. This section shall not apply to those nonprofit corporations in existence on August 10, 1996, until one year after August 10, 1996, nor to any organization qualified as a private foundation under the applicable provisions of the United States Internal Revenue Code, nor to religious organizations, churches, or the integrated auxiliaries thereof or to conventions or associations of churches. N.H. Rev. Stat. Ann. § 292:6-a

Interested Transactions
The articles of agreement may not contain a provision eliminating or limiting the personal liability of a director, an officer, or both, to the corporation or its shareholders for monetary damages for breach of fiduciary duty with respect to any transaction from which the director, officer, or both, derived an improper personal benefit. N.H. Rev. Stat. Ann. § 292:2(V-a)(a)(3).

Indemnification of Directors/Officers
The articles of agreement may contain a provision eliminating or limiting the personal liability of a director, an officer, or both, to the corporation or its shareholders for monetary damages for breach of fiduciary duty as a director, an officer, or both, except with respect to:

(1) Any breach of the director’s or officer’s duty of loyalty to the corporation or its shareholders.
(2) Acts or omissions which are not in good faith or which involve intentional misconduct or a knowing violation of law.
(3) Any transaction from which the director, officer, or both, derived an improper personal benefit.
(b) This paragraph shall not be construed to eliminate or limit the liability of a director, an officer, or both, for any act or omission occurring before January 1, 1992. N.H. Rev. Stat. Ann. § 292:2(V-a(a)(3).

Loans to Directors, Officers, or Employees
No relevant statute found.

Notable Departures from Federal Law

Religious/Church Exemption

Healthcare "Plus Factors"
Health care charitable trusts, including nonprofit hospitals, must provide community benefits if they have total fund balances of over $100,000. N.H. Rev. Stat. Ann. § 7:32(c)-32(l).

General

Rebuttable Presumption of Reasonableness - Delegation to Disinterested "Others"
No relevant statute found.

Charitable Solicitation Requirements

State-Specific Retention Policies
The articles of agreement shall be recorded in the office of the secretary of state. When so recorded, the signers thereof shall be a corporation, and such corporation, its officers, and members shall have all the rights and powers and be subject to all the duties and liabilities of other similar corporations incorporated under this chapter, their officers, and members, except so far as they are limited or enlarged by this chapter. Subsequent to filing with the secretary of state a copy shall be filed in the office of the clerk of the town in which the mailing address of the corporation is located. N.H. Rev. Stat. Ann. § 292:4.

Personal Information Collection and Protection Laws
Any person doing business in the state who owns or licenses computerized data that includes personal information shall, when it becomes aware of a security breach, promptly determine the likelihood that the information has been or will be misused. If the determination is that misuse of the information has occurred or is reasonably likely to occur, or if a determination cannot be made, the person shall notify the affected individuals as soon as possible as required under this subdivision. N.H. Rev. Stat. Ann. § 359-C:20
State laws for charitable organizations – New Hampshire (continued)

Whistleblower Protection
Not specific to nonprofit organizations; however, the Whistleblower state law can be found at N.H. Rev. Stat. Ann. § 275-E:2.

State Volunteer Liability Law
Any person who is a volunteer of a nonprofit organization or government entity shall be immune from civil liability in any action brought on the basis of any act or omission resulting in damage or injury to any person if: (a) The nonprofit organization or government entity has a record indicating that the person claiming to be a volunteer is a volunteer for such organization or entity; and (b) The volunteer was acting in good faith and within the scope of his official functions and duties with the organization; and (c) The damage or injury was not caused by willful, wanton, or grossly negligent misconduct by the volunteer. N.H. Rev. Stat. Ann. § 508:17

Independent Audit Requirements
At least annually the New Hampshire Charitable Foundation shall prepare a report, audited by an independent certified public accountant, which shall include for each common trust fund:

(a) Balance sheet showing assets and liabilities together with statements showing: (1) All investments at the beginning and end of each fiscal year stated at both book and market values, (2) Changes in investments, (3) Realized capital gains and losses, (4) Expenses, including fees, charged to principal, (5) Capital distributions, (6) Net asset value of participation units at the beginning and end of the year and at any intermediate valuation date, and (7) Participation unit capital distributions with the dates thereof.

(b) Income statement showing: (1) Income received, (2) Expenses, including fees, charged to income, (3) Income distributions, and (4) Participation unit income distributions with the dates thereof. N.H. Rev. Stat. Ann. § 292:23

State Filing Requirements
Every corporation organized under this chapter or by act of the legislature shall, during the calendar year 1990, and every five years thereafter, make a return in writing to the secretary of state upon blanks to be furnished by him and shall pay a fee of $25. The return shall be signed by the president or other officer of said corporation. The return shall state the corporation’s principal address and the names and addresses of all the officers and directors or the governing board of the corporation. Any corporation which does not renew its charter as provided in this subdivision shall have its charter repealed, revoked and annulled; shall lose any right or title to the name under which it was incorporated; and shall be so advised in writing by the secretary of state. N.H. Rev. Stat. Ann. § 292:25

Tax Exemptions

Income Tax
Income received by charitable organizations used "for the purposes for which it is established" is exempt from income taxation. N.H. Rev. Stat. Ann. § 77:8.

Sales and Use Taxation
No sales tax.

Property Tax Exemption
Property tax exemptions exist for "charitable organizations and societies organized, incorporated, or legally doing business in this state, owned, used and occupied by them directly for the purposes for which they are established, provided that none of the income or profits thereof is used for any other purpose than the purpose for which they are established. § 72:23 (V). All charitable organizations or societies must file a form regarding their eligibility for tax exemption. N.H. Rev. Stat. Ann. § 72:23(VI).

Miscellaneous Exemptions
N/A.

General Resource:
http://www.gencourt.state.nh.us/rsa/html/NHTOC/NHTOC-XXVII.htm

Disclaimer
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Model Acts

Uniform Prudent Management of Institutional Funds Act
Adopted

Uniform Prudent Investor Act
Adopted