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UNIFORM LAW CONFERENCE OF CANADA

UNIFORM BENEVOLENT AND COMMUNITY CROWDFUNDING ACT (AMENDMENT) 2023

as adopted November 30, 2023
in accordance with
the Resolution of August 25, 2023

UNIFORM BENEVOLENT AND COMMUNITY CROWDFUNDING ACT (AMENDMENT) 2023

1. Section 25 is replaced with the following:

Right to halt or be excluded from public appeal

25. (1) If a public appeal has been initiated without the consent of

(a) an identifiable individual that is the beneficiary of the appeal, or

(b) a qualified donee for whose benefit the appeal was initiated, subject to this section, the beneficiary or qualified donee may demand that the appeal be halted.

(2) If a public appeal has been initiated without the consent of

(a) an identifiable individual that is the beneficiary of the appeal, or

(b) a qualified donee for whose benefit the appeal was initiated, subject to this section, the beneficiary or qualified donee may demand to be excluded from the public appeal.

(3) If the beneficiary referred to in subsection (1) or (2) is a vulnerable beneficiary the parent, guardian, or legal representative of the beneficiary is

(a) the person whose consent is relevant, and

(b) the person entitled to make the demand.

(4) If the person referred to in subsection (1) or (2) is a qualified donee, a demand may be made by an authorized representative of the donee.

(5) A demand under subsection (1) or (2) need not be in any particular form and must be delivered

(a) if the public appeal is conducted through an intermediary, to that intermediary, or

(b) if there is no intermediary, to the appeal organizer who must comply with the demand.

(6) Subject to subsection 6(2), if a demand is delivered under subsection (5), all funds raised by the public appeal, whether before or after delivery, are deemed to be surplus and must be distributed as provided in section 10 or refunded as provided in section 11.

(7) If a demand to exclude a beneficiary or qualified donee is delivered under subsection (5), the terms of the public appeal and the trust document, if any, are deemed to be amended to reflect the exclusion of the beneficiary or qualified donee who made the demand, and the appeal organizers must conduct the public appeal accordingly.

(8) If a demand under subsection (1) or (1.1) is not complied with, the beneficiary or qualified donee may apply to the court for relief in relation to the breach of duty imposed by subsection (5) which may include

(a) an injunction, if the intermediary or appeal organizer is subject to the jurisdiction of the court,

(b) a declaration that the intermediary or appeal organizer has breached a duty imposed by the Act, or

(c) any other order in respect of the public appeal that the court considers appropriate and just in the circumstances.

Comment: Section 25 is amended to include a right for a beneficiary of the appeal or a qualified donee for whose benefit an appeal has been initiated to demand to be excluded from the public appeal. Where a demand to be excluded is delivered, the terms of the public appeal and the trust document, if any, are deemed to be amended to reflect the exclusion of the beneficiary or qualified donee who made the demand. Appeal organizers have a duty to conduct the public appeal in accordance with the demand for exclusion.

2. *The following is added after section 25:*

Right to terminate public appeal – illegality

25.1. (1) A person who is listed or referred to in section 8 may apply to the court for an order terminating the public appeal on the grounds that one or more of the following are contrary to law:

- (a) the object of the public appeal,**
- (b) the manner in which the public appeal is conducted,**
- (c) the administration of the trust attaching to the fund.**

(2) In granting an order of termination, the court may

- (a) direct that undisbursed donations be dealt with in accordance with Part 3 of this Act, and**
- (b) make any other order in respect of the public appeal that the court considers appropriate and just in the circumstances.**

Comment: Section 25.1 is added to provide a mechanism by which a person who is listed or referred to in section 8 may apply to the court for an order terminating the public appeal on the grounds of illegality.