

Final CA Crowdfunding Regulations – At Last!

04.11.24 | Linda J. Rosenthal, JD



Over two years ago, as Governor Gavin Newsom approved [AB 488](#), the nation's first-of-its-kind charitable-crowdfunding law, the head of the California Association of Nonprofits, Jan Masaoka, described the statute as impacting “...[every single person](#) who clicks on that ‘donate now’ button and every single nonprofit that receives funding this way.” See [A New Crowdfunding Law – At Last!](#) (September 28, 2021).

For complex statutes, though, the lawmakers’ vote followed by the chief executive’s signature is not the end of the story. Often, the drafters intentionally omit specific details – to be filled in later through the official administrative regulatory process. See [CA Charitable Crowdfunding: New Proposed Regs](#) (May 31, 2022); [California Crowdfunding Regulations: Last Chance to Comment](#) (November 23, 2022); and [Third Time’s A Charm?: CA Charitable-Crowdfunding Proposed Regs](#) (December 12, 2023).

Now, after three sets of proposed regulations, and substantial input from the general public in the form of submitted comments, this legislative saga has reached the finish line.

On March 26, 2024, the State of California, Office of Administrative Law, published a [Notice of Approval of Regulatory Action](#) authorizing the final set of regulations implementing AB 488. Many of the provisions went into effect immediately that same day, but a small number have been delayed until either June 12, 2024, or January 1, 2025.

The passage of this groundbreaking statute is a huge achievement, marked by cooperation and collaboration among all shareholders: the charitable sector, the crowdfunding industry, lawmakers, and government officials. They were ably assisted by distinguished academics as well as professionals who specialize in nonprofit law.

It’s certainly a far cry from 2018 when skeptics had asked: “Is California [where crowdfunding bills](#) go to die?”

Crowdfunding is Not New

That early criticism was a bit unfair, considering the many challenges and hurdles facing lawmakers and officials in the Department of Justice and the Attorney General's office. Less than a decade ago, crowdfunding appeals and campaigns began to pop up everywhere. They have become especially popular for raising money for charitable organizations and causes, with impressive year-over-year growth.

It's important to understand, though, that "crowdfunding, as a concept, is not new."

"In *Crowdfunding Then and Now* (May 5, 2021), (as AB 488 was making its way through the California legislature), we took our readers on a journey back in time to the nineteenth century. Two titans – French philosopher Auguste Comte and American publishing powerhouse Joseph Pulitzer – devised ingenious and wildly successful crowdfunding schemes in that pre-internet era."

What's different now "... is the *medium* through which the crowdfunding appeals are made. The internet supercharges the method of communicating the appeals and responding to them. Charitable fundraising + the internet + crowdfunding is accurately described as a 'marriage made in heaven.'"

But those conditions have set the stage for a Wild-West type of free-for-all and chaos, open to fraud and abuse by bad actors. "The problem, of course, is that existing charitable-solicitations laws were adopted with traditional (non-online) appeals in mind. As such, they [were] woefully inadequate to meet the challenges" that arose from internet money-raising campaigns and ad hoc appeals.

"Exacerbating this problem are the revolutionary changes in technology that far outpace legislators' and policymakers' best efforts to create effective but not oppressive regulatory schemes."

Important advice to lawmakers and regulators came early on from charitable-crowdfunding experts, including Notre Dame Law Professor Lloyd Hitoshi Mayer. He has stressed repeatedly over several years that the best path forward is an approach that balances the need for *some* amount of regulation against the strong urge of people in government to over-regulate this burgeoning money-raising landscape. See, for example, *Regulating Charitable Crowdfunding* (2022) 97 Indiana Law Journal 1375 (updated February 1, 2023), also published in *Stanford Social Innovation Review* (SSRN).

Charitable-crowdfunding in the modern era has created much-needed windfalls for many charitable endeavors, and should not be unnecessarily squelched.

Key Background Documents

For background of the development of this landmark legislation (over and above its significance as a current legal news item), see our earlier posts:

- *Charitable Crowdfunding: Then and Now* (May 5, 2021)
- *A New Crowdfunding Law – At Last!* (September 28, 2021)
- *CA Charitable Crowdfunding: New Proposed Regs* (May 31, 2022)
- *CA Crowdfunding Regulations: Last Chance to Comment* (November 23, 2022)
- *Twists and Turns in 2022's Nonprofit News* (December 31, 2022)
- *Third Time's A Charm?: CA Charitable-Crowdfunding Proposed Regs* (December 12, 2023)

Key Current Official Documents

In the official introduction of the final regulations posted on March 26, 2024, there are several links to the most important documents including, most notably, that announcement itself:

- [OAL Approval Letter](#)
- [Final Text of Proposed Regulations](#)
- [Final Statement of Reasons](#)
 - [Final Statement of Reasons – Attachment A](#)
- [Final Economic and Fiscal Impact Statement \(STD 399\)](#)
 - [Final STD 399 Attachment](#)
- [Updated Informative Digest](#)

In particular, the Final Statement of Reasons explains, point by point, which changes have been made from the third set of proposed regulations to the final regulations. That document includes identification of which public comments contributed to the decisions on the chosen final language – including the names of people who had submitted comments in the final period from November 23, 2023, through January 2, 2024.

Early Reactions and Explanations

For readers interested in analyses of the final regulations, see, for example:

- [California Regulation of Charitable Fundraising Platforms: Part I – Definitions](#) (Podcast) (April 8, 2024) Cynthia K. Rowland, Esq., EO Radio Show – Your Nonprofit Legal Resource, Ep. 76, [YouTube](#) [There will be additional episodes with more details]
- [Final Regulations: Charitable Fundraising Platforms and Platform Charities](#) (April 8, 2024) Gene Takagi, Esq., *NEO Law Blog*

It's early days; there will be many more articles and posts discussing these important final regulations under AB 488.

Conclusion

All along, it's been "... widely expected there will be considerable nationwide interest in California's new regulatory scheme" and that AB 488 "may serve as a model for other states to use in writing their own new laws."

– Linda J. Rosenthal, J.D., FPLG Information & Research Director