

CHAPTER 236

**ELECTIONS**

HOUSE BILL 17-1155

BY REPRESENTATIVE(S) Thurlow, Becker K., Hooton, Landgraf, Lontine, Rosenthal, Kraft-Tharp, Liston, Mitsch Bush;  
also SENATOR(S) Gardner, Hill.

**AN ACT**

**CONCERNING THE ABILITY TO CURE CAMPAIGN FINANCE REPORTING DEFICIENCIES WITHOUT PENALTY.**

*Be it enacted by the General Assembly of the State of Colorado:*

**SECTION 1.** In Colorado Revised Statutes, 1-45-109, **amend** (4)(b); and **add** (4)(c) and (12) as follows:

**1-45-109. Filing - where to file - timeliness - definition.** (4) (b) Any report that is deemed to be incomplete by the appropriate officer shall be accepted on a conditional basis and the committee ~~or party treasurer shall~~ **MUST** be notified by mail as to any deficiencies found. If an ~~electronic mail~~ **E-MAIL** address is on file with the secretary of state, the secretary of state may ~~also~~ provide such notification by ~~electronic mail~~ **E-MAIL**. The committee ~~or party treasurer shall have~~ **HAS** fifteen business days from the date such notice is sent, whether electronically or by United States mail, to file an addendum that cures the deficiencies.

(c) (I) UPON RECEIPT OF A COMPLAINT BROUGHT UNDER SECTION 9 (2)(a) OF ARTICLE XXVIII OF THE STATE CONSTITUTION ALLEGING A FAILURE TO FILE OTHER INFORMATION REQUIRED TO BE FILED OR DISCLOSED PURSUANT TO ARTICLE XXVIII OF THE STATE CONSTITUTION OR THIS ARTICLE 45, THE SECRETARY OF STATE SHALL GIVE NOTICE TO THE COMMITTEE BY E-MAIL OF THE DEFICIENCIES ALLEGED IN THE COMPLAINT. SERVICE OF THE NOTICE DOES NOT TOLL OR OTHERWISE AFFECT THE THREE-DAY PERIOD DURING WHICH THE SECRETARY OF STATE IS REQUIRED TO REFER A COMPLAINT TO AN ADMINISTRATIVE LAW JUDGE PURSUANT TO SECTION 9 (2)(a) OF ARTICLE XXVIII OF THE STATE CONSTITUTION. UPON RECEIPT OF THE NOTICE FROM THE SECRETARY OF STATE, THE COMMITTEE MAY REQUEST FROM THE APPROPRIATE OFFICER A POSTPONEMENT OF THE HEARING BROUGHT UNDER SECTION 9 (2)(a) OF ARTICLE XXVIII OF THE STATE CONSTITUTION AND, IF SUCH REQUEST IS TIMELY

*Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.*

SUBMITTED, HAS FIFTEEN BUSINESS DAYS FROM THE DATE OF THE NOTICE TO FILE AN ADDENDUM TO THE RELEVANT REPORT THAT CURES ANY SUCH DEFICIENCIES IN THE DISCLOSURE SPECIFIED IN THE NOTICE. THE COMMITTEE SHALL ALSO PROVIDE THE COMPLAINANT NOTICE OF THE ENTITY'S INTENT TO CURE AND A COPY OF THE ADDENDUM ON THE SAME DAY THAT THE ADDENDUM IS FILED WITH THE SECRETARY OF STATE. WHERE THE COMMITTEE FILES AN ADDENDUM THAT CURES ALL DEFICIENCIES ALLEGED IN THE COMPLAINT BEFORE THE EXPIRATION OF THE FIFTEEN-DAY PERIOD SPECIFIED IN THIS SUBSECTION (4)(c)(I), THE APPROPRIATE OFFICER SHALL NOT ASSESS A PENALTY AGAINST THE COMMITTEE THAT OTHERWISE WOULD HAVE BEEN ASSESSED FOR THE DEFICIENCIES FOR THE PERIOD FROM THE FIRST DATE OF THE ALLEGED VIOLATION THROUGH THE EXPIRATION OF THE CURE PERIOD.

(II) UPON FILING AN ADDENDUM TO THE RELEVANT REPORT BY THE COMMITTEE THAT CURES ALL SUCH DEFICIENCIES IN ACCORDANCE WITH SUBSECTION (4)(c)(I) OF THIS SECTION, THE APPROPRIATE OFFICER SHALL SET A HEARING WITHIN THIRTY DAYS OF THE NOTICE TO DETERMINE WHETHER ALL ISSUES RAISED BY THE COMPLAINT HAVE BEEN RESOLVED. IF THE COMMITTEE FAILS TO CURE ANY SUCH DEFICIENCY, ANY PENALTY IMPOSED FOR THE DEFICIENCY CONTINUES TO ACCRUE UNTIL FURTHER RESOLUTION OF THE MATTER. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, SUBSECTION (4)(c)(I) OF THIS SECTION ONLY APPLIES IN THE CASE OF A GOOD FAITH EFFORT BY A COMMITTEE TO MAKE A TIMELY DISCLOSURE IN ACCORDANCE WITH ARTICLE XXVIII OF THE STATE CONSTITUTION OR THIS ARTICLE 45 OR WHERE THE DISCLOSURE MADE BY THE COMMITTEE IS IN SUBSTANTIAL COMPLIANCE WITH SUCH LEGAL REQUIREMENTS. THE COMMITTEE HAS THE BURDEN OF DEMONSTRATING GOOD FAITH OR SUBSTANTIAL COMPLIANCE UNDER THIS SUBSECTION (4)(c)(II) BY A PREPONDERANCE OF THE EVIDENCE IN THE HEARING HELD BY THE APPROPRIATE OFFICER UNDER SECTION 9 (2)(a) OF ARTICLE XXVIII OF THE STATE CONSTITUTION. WHERE THE COMMITTEE FAILS TO SATISFY ITS BURDEN OF DEMONSTRATING EITHER GOOD FAITH OR SUBSTANTIAL COMPLIANCE, THE ADMINISTRATIVE LAW JUDGE SHALL ENTER OR IMPOSE A CIVIL PENALTY IN ACCORDANCE WITH THE FOLLOWING:

(A) IF THE AMOUNT OF THE PENALTY THAT HAS ACCRUED TO THAT POINT IN TIME IS LESS THAN FIVE THOUSAND DOLLARS, THE ADMINISTRATIVE LAW JUDGE SHALL IMPOSE A PENALTY IN THE AMOUNT OF THE PENALTY THAT HAS ACCRUED TO THAT POINT IN TIME.

(B) IF THE AMOUNT OF THE CIVIL PENALTY THAT HAS ACCRUED TO THAT POINT IN TIME IS FIVE THOUSAND OR MORE DOLLARS, THE ADMINISTRATIVE LAW JUDGE SHALL IMPOSE A PENALTY, IN HIS OR HER DISCRETION, IN AN AMOUNT THAT IS NOT LESS THAN FIVE THOUSAND DOLLARS.

(12) FOR PURPOSES OF SUBSECTION (4)(c) OF THIS SECTION, "APPROPRIATE OFFICER" MEANS A HEARING OFFICER OR AN ADMINISTRATIVE LAW JUDGE.

**SECTION 2. Act subject to petition - effective date - applicability.** (1) This act takes effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly (August 9, 2017, if adjournment sine die is on May 10, 2017); except that, if a referendum petition is filed pursuant to section 1 (3) of article V of the state constitution against this act

or an item, section, or part of this act within such period, then the act, item, section, or part will not take effect unless approved by the people at the general election to be held in November 2018 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

(2) This act applies to the disclosure of campaign finance information made on or after the effective date of this act.

Approved: May 24, 2017