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HOUSE BILL 18-1154

BY REPRESENTATIVE(S) Hooton and Van Winkle, Gray, Humphrey, Kennedy, Kraft-Tharp, Lontine, Melton, Michaelson Jenet, Pettersen, Duran;
also SENATOR(S) Jahn, Court, Crowder, Fenberg, Fields, Garcia, Kefalas, Merrifield, Moreno, Todd, Williams A.

CONCERNING CONSUMER PROTECTIONS RELATING TO A SOLICITATION TO PROVIDE A COPY OF A PUBLIC RECORD FOR A FEE.

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

SECTION 1. In Colorado Revised Statutes, **add** 6-1-728 as follows:

6-1-728. Solicitation of fee for a deed or deed of trust - definitions. (1) AS USED IN THIS SECTION:

(a) "LOCAL GOVERNMENT" MEANS A POLITICAL SUBDIVISION OF THIS STATE, A SPECIAL PURPOSE DISTRICT IN THIS STATE, AN INSTRUMENTALITY OR CORPORATION OF SUCH A POLITICAL SUBDIVISION OR SPECIAL PURPOSE DISTRICT, OR A COMBINATION OR SUBUNIT OF ANY OF THEM.

(b) "SOLICIT" OR "SOLICITATION" MEANS TO DIRECTLY ADVERTISE OR

Capital letters or bold & italic numbers indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

MARKET THROUGH WRITING OR GRAPHICS AND VIA MAIL, TELEFAX, OR ELECTRONIC MAIL TO AN INDIVIDUALLY IDENTIFIED PERSON, RESIDENCE, OR BUSINESS LOCATION. "SOLICIT" AND "SOLICITATION" DO NOT INCLUDE ANY OF THE FOLLOWING:

(I) COMMUNICATING VIA TELEPHONE, MAIL, OR ELECTRONIC COMMUNICATION, IF INITIATED BY A CONSUMER; OR

(II) ADVERTISING AND MARKETING TO THOSE WITH WHOM THE SOLICITOR HAS A PREEXISTING BUSINESS RELATIONSHIP.

(c) "STATE AGENCY" MEANS ANY OFFICE, DEPARTMENT, OR INDEPENDENT AGENCY IN THE EXECUTIVE BRANCH OF COLORADO STATE GOVERNMENT, THE GENERAL ASSEMBLY, OR THE COURTS.

(2) A PERSON WHO SOLICITS A FEE FOR PROVIDING A COPY OF A DEED OR DEED OF TRUST SHALL:

(a) NOT LESS THAN FIFTEEN DAYS BEFORE DISTRIBUTING A SOLICITATION, FURNISH A COPY OF THE DOCUMENT THAT WILL BE USED FOR THE SOLICITATION TO EACH COUNTY CLERK AND RECORDER WHERE THE SOLICITATION IS TO BE DISTRIBUTED;

(b) NOT CHARGE A FEE OF MORE THAN FOUR TIMES THE AMOUNT CHARGED BY THE COUNTY CLERK AND RECORDER THAT HAS CUSTODY OF THE DEED OR DEED OF TRUST FOR A COPY OF THE SAME DEED OR DEED OF TRUST; AND

(c) (I) STATE ON THE TOP OF THE DOCUMENT USED FOR THE SOLICITATION, IN AT LEAST TWENTY-FOUR-POINT TYPE:

(A) THAT THE SOLICITATION IS NOT FROM A STATE AGENCY OR LOCAL GOVERNMENT;

(B) THAT NO ACTION IS LEGALLY REQUIRED OF THE PERSON BEING SOLICITED;

(C) THE FEE FOR, OR THE COST OF, OBTAINING A COPY OF THE DEED OR DEED OF TRUST FROM THE COUNTY CLERK AND RECORDER THAT HAS CUSTODY OF THE DEED OR DEED OF TRUST;

(D) THE INFORMATION NECESSARY TO CONTACT THE COUNTY CLERK AND RECORDER THAT HAS CUSTODY OF THE DEED OR DEED OF TRUST; AND

(E) THE NAME AND PHYSICAL ADDRESS OF THE PERSON SOLICITING THE FEE.

(II) THE DOCUMENT USED FOR A SOLICITATION MUST NOT BE IN A FORM OR USE DEADLINE DATES OR OTHER LANGUAGE THAT MAKES THE DOCUMENT APPEAR TO BE A DOCUMENT ISSUED BY A STATE AGENCY OR LOCAL GOVERNMENT OR THAT APPEARS TO IMPOSE A LEGAL DUTY ON THE INDIVIDUAL BEING SOLICITED.

(3) ONLY THE ATTORNEY GENERAL OR DISTRICT ATTORNEY MAY BRING AN ACTION AGAINST A PERSON WHO VIOLATES THIS SECTION. THE PENALTIES SPECIFIED IN SECTION 6-1-112 APPLY TO THE ACTION.

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 8, 2018, if adjournment sine die is on May 9, 2018); 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 conduct occurring on or after the applicable effective date of this act.

Crisanta Duran
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Kevin J. Grantham
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Effie Ameen
SECRETARY OF
THE SENATE

APPROVED _____

John W. Hickenlooper
GOVERNOR OF THE STATE OF COLORADO