

**Second Regular Session
Seventy-first General Assembly
STATE OF COLORADO**

REVISED

*This Version Includes All Amendments Adopted
on Second Reading in the Second House*

LLS NO. 18-0806.01 Thomas Morris x4218

HOUSE BILL 18-1154

HOUSE SPONSORSHIP

Hooton and Van Winkle,

SENATE SPONSORSHIP

Jahn,

House Committees
Finance

Senate Committees
State, Veterans, & Military Affairs

A BILL FOR AN ACT

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

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov>.)

The bill requires a person who solicits a fee for providing a copy of a record held by a governmental entity to:

- ! Give 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 if the solicitation is addressed to a real property owner and the record to be

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

SENATE
2nd Reading Unamended
April 2, 2018

HOUSE
3rd Reading Unamended
March 13, 2018

HOUSE
Amended 2nd Reading
March 12, 2018

- provided is a deed;
- ! Not charge a fee of more than 4 times the amount charged by the state agency or local government that has custody of the record for a copy of the same record; and
- ! Include specified disclosures on the document used for the solicitation, not make the document appear to have been issued by a state agency or local government, and not make the document appear to impose a legal duty on the individual being solicited.

The attorney general and the appropriate district attorney may bring an action for a violation. The court may order a refund and a penalty, for a first violation, of not more than \$100 for each solicitation document distributed in violation of the bill and not more than \$200 for each solicitation document for subsequent violations. Title insurance companies are excluded from the bill.

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

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

4 **6-1-728. Solicitation of fee for a deed or deed of trust -**
5 **definitions.** (1) AS USED IN THIS SECTION:

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

11 ■
12 (b) "SOLICIT" OR "SOLICITATION" MEANS TO DIRECTLY ADVERTISE
13 OR MARKET THROUGH WRITING OR GRAPHICS AND VIA MAIL, TELEFAX, OR
14 ELECTRONIC MAIL TO AN INDIVIDUALLY IDENTIFIED PERSON, RESIDENCE,
15 OR BUSINESS LOCATION. "SOLICIT" AND "SOLICITATION" DO NOT INCLUDE
16 ANY OF THE FOLLOWING:

17 ■

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

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

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

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

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

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

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

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

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

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

27 (D) THE INFORMATION NECESSARY TO CONTACT THE COUNTY

1 CLERK AND RECORDER THAT HAS CUSTODY OF THE DEED OR DEED OF
2 TRUST; AND

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

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

10

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

14 **SECTION 2. Act subject to petition - effective date -**
15 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
16 the expiration of the ninety-day period after final adjournment of the
17 general assembly (August 8, 2018, if adjournment sine die is on May 9,
18 2018); except that, if a referendum petition is filed pursuant to section 1
19 (3) of article V of the state constitution against this act or an item, section,
20 or part of this act within such period, then the act, item, section, or part
21 will not take effect unless approved by the people at the general election
22 to be held in November 2018 and, in such case, will take effect on the
23 date of the official declaration of the vote thereon by the governor.

24 (2) This act applies to conduct occurring on or after the applicable
25 effective date of this act.