

CHAPTER 313

CONSUMER AND COMMERCIAL TRANSACTIONS

SENATE BILL 01-100

BY SENATOR(S) Gordon, Chlouber, Dyer (Arapahoe), Epps, Fitz-Gerald, Hanna, Nichol, Reeves, Tate, Tupa, and Windels;
also REPRESENTATIVE(S) Stengel, Bacon, Borodkin, Boyd, Coleman, Daniel, Groff, Grossman, Hodge, Jahn, Jameson, Kester,
Madden, Miller, Plant, Ragsdale, Romanoff, Swenson, Tochtrop, Veiga, Vigil, and Williams S.

AN ACT

CONCERNING THE REQUIREMENT FOR ADDITIONAL DISCLOSURES BY PERSONS MAKING CHARITABLE SOLICITATIONS, AND, IN CONNECTION THEREWITH, PROHIBITING CERTAIN PRACTICES AND MAKING AN APPROPRIATION THEREFOR.

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

SECTION 1. The introductory portion to 6-16-103 (7), Colorado Revised Statutes, is amended, and the said 6-16-103 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

6-16-103. Definitions. As used in this article, unless the context otherwise requires:

(7) "Paid solicitor" ~~or "professional fundraiser"~~ means a person who, for monetary compensation, performs any service in which contributions will be solicited in this state by such compensated person or by any compensated person he OR SHE employs, procures, or engages, directly or indirectly, to solicit for contributions. The following persons are not "paid solicitors": ~~or "professional fundraisers"~~.

(9.3) "PROFESSIONAL FUNDRAISING CONSULTANT" MEANS ANY PERSON, OTHER THAN A BONA FIDE OFFICER OR REGULAR EMPLOYEE OF A CHARITABLE ORGANIZATION, WHO IS RETAINED BY A CHARITABLE ORGANIZATION FOR A FIXED FEE OR RATE UNDER A WRITTEN AGREEMENT TO PLAN, MANAGE, ADVISE, CONSULT, OR PREPARE MATERIAL FOR OR WITH RESPECT TO THE SOLICITATION IN THIS STATE OF CONTRIBUTIONS FOR A CHARITABLE ORGANIZATION BUT WHO DOES NOT SOLICIT CONTRIBUTIONS OR EMPLOY, PROCURE, OR ENGAGE ANY COMPENSATED PERSON TO SOLICIT CONTRIBUTIONS. NO LAWYER, INVESTMENT COUNSELOR, OR BANKER WHO ADVISES A PERSON TO MAKE A CONTRIBUTION SHALL BE DEEMED, AS A RESULT OF SUCH ADVICE, TO BE A

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

"PROFESSIONAL FUNDRAISING CONSULTANT."

SECTION 2. 6-16-104, Colorado Revised Statutes, is REPEALED AND REENACTED, WITH AMENDMENTS, to read:

6-16-104. Charitable organizations - initial registration - annual filing - fees.

(1) EVERY CHARITABLE ORGANIZATION, EXCEPT THOSE EXEMPTED UNDER SUBSECTION (6) OF THIS SECTION, THAT INTENDS TO SOLICIT CONTRIBUTIONS IN THIS STATE BY ANY MEANS OR TO HAVE CONTRIBUTIONS SOLICITED IN THIS STATE ON ITS BEHALF BY ANY OTHER PERSON OR ENTITY OR THAT PARTICIPATES IN A CHARITABLE SALES PROMOTION SHALL, PRIOR TO ENGAGING IN ANY OF THESE ACTIVITIES, FILE A REGISTRATION STATEMENT WITH THE SECRETARY OF STATE UPON A FORM PRESCRIBED BY THE SECRETARY OF STATE. EACH CHAPTER, BRANCH, OR AFFILIATE OF A CHARITABLE ORGANIZATION THAT IS REQUIRED TO FILE A REGISTRATION STATEMENT UNDER THIS SECTION EITHER SHALL FILE A SEPARATE REGISTRATION STATEMENT OR SHALL REPORT THE NECESSARY INFORMATION TO ITS PARENT CHARITABLE ORGANIZATION, WHICH THEN SHALL FILE A CONSOLIDATED REGISTRATION STATEMENT.

(2) THE REGISTRATION STATEMENT SHALL BE SIGNED AND SWORN TO UNDER OATH BY AT LEAST TWO AUTHORIZED OFFICERS OF THE CHARITABLE ORGANIZATION, INCLUDING ITS CHIEF FISCAL OFFICER, AND SHALL CONTAIN THE FOLLOWING INFORMATION:

(a) THE NAME OF THE CHARITABLE ORGANIZATION, THE PURPOSE FOR WHICH IT IS ORGANIZED, AND THE NAME OR NAMES UNDER WHICH IT INTENDS TO SOLICIT CONTRIBUTIONS;

(b) THE ADDRESS AND TELEPHONE NUMBER OF THE PRINCIPAL PLACE OF BUSINESS OF THE CHARITABLE ORGANIZATION AND THE ADDRESS AND TELEPHONE NUMBER OF ANY OFFICES IN THIS STATE, OR, IF THE CHARITABLE ORGANIZATION DOES NOT MAINTAIN AN OFFICE IN THIS STATE, THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON THAT HAS CUSTODY OF ITS FINANCIAL RECORDS;

(c) THE NAMES AND ADDRESSES OF THE OFFICERS, DIRECTORS, TRUSTEES, AND EXECUTIVE PERSONNEL OF THE CHARITABLE ORGANIZATION;

(d) THE LAST DAY OF THE FISCAL YEAR OF THE CHARITABLE ORGANIZATION;

(e) THE PLACE AND DATE WHEN THE CHARITABLE ORGANIZATION WAS LEGALLY ESTABLISHED, THE FORM OF ITS ORGANIZATION, AND ITS TAX-EXEMPT STATUS;

(f) A FINANCIAL REPORT FOR THE MOST RECENT FISCAL YEAR, UPON A FORM PRESCRIBED BY THE SECRETARY OF STATE, OR, IN THE DISCRETION OF THE SECRETARY OF STATE, A COPY OF THE CHARITABLE ORGANIZATION'S FEDERAL FORM 990, WITH ALL SCHEDULES EXCEPT SCHEDULES OF DONORS, FOR THE MOST RECENT FISCAL YEAR.

(3) THE SECRETARY OF STATE MAY PROMULGATE RULES CONCERNING THE ACCEPTANCE OF A UNIFORM MULTISTATE REGISTRATION STATEMENT, SUCH AS A UNIFIED REGISTRATION STATEMENT, IN LIEU OF THE REGISTRATION STATEMENT DESCRIBED IN SUBSECTION (2) OF THIS SECTION.

(4) THE REGISTRATION OF A CHARITABLE ORGANIZATION SHALL BE AMENDED ANNUALLY, ON FORMS PRESCRIBED BY THE SECRETARY OF STATE, TO REFLECT ANY CHANGES OF NAME, ADDRESS, PRINCIPALS, CORPORATE FORMS, TAX STATUS, AND ANY OTHER CHANGES THAT MATERIALLY AFFECT THE IDENTITY OR BUSINESS OF THE CHARITABLE ORGANIZATION.

(5) EVERY CHARITABLE ORGANIZATION REQUIRED TO REGISTER UNDER THIS SECTION SHALL ANNUALLY FILE WITH THE SECRETARY OF STATE A FINANCIAL REPORT FOR THE MOST RECENT FISCAL YEAR ON A FORM PRESCRIBED BY THE SECRETARY OF STATE, OR, IN THE DISCRETION OF THE SECRETARY OF STATE, A COPY OF THE CHARITABLE ORGANIZATION'S FEDERAL FORM 990, WITH ALL SCHEDULES EXCEPT SCHEDULES OF DONORS, FOR THE MOST RECENT FISCAL YEAR. SUCH FINANCIAL REPORT SHALL BE FILED ON OR BEFORE THE FIFTEENTH DAY OF THE FIFTH CALENDAR MONTH AFTER THE CLOSE OF EACH FISCAL YEAR IN WHICH THE CHARITABLE ORGANIZATION SOLICITED IN THIS STATE.

(6) THE FOLLOWING SHALL NOT BE REQUIRED TO FILE A REGISTRATION STATEMENT:

(a) PERSONS THAT ARE EXEMPT FROM FILING A FEDERAL ANNUAL INFORMATION RETURN PURSUANT TO 26 U.S.C. SEC. 6033(a) (2) (A) (i), (a) (2) (A) (iii), OR (a) (2) (C) (i);

(b) POLITICAL PARTIES, CANDIDATES FOR FEDERAL OR STATE OFFICE, AND POLITICAL ACTION COMMITTEES REQUIRED TO FILE FINANCIAL INFORMATION WITH FEDERAL OR STATE ELECTIONS COMMISSIONS; AND

(c) CHARITABLE ORGANIZATIONS THAT DO NOT INTEND TO AND DO NOT ACTUALLY RAISE OR RECEIVE GROSS REVENUE, EXCLUDING GRANTS FROM GOVERNMENTAL ENTITIES OR FROM ORGANIZATIONS EXEMPT FROM FEDERAL TAXATION UNDER SECTION 501(c) (3) OF THE FEDERAL "INTERNAL REVENUE CODE OF 1986", AS AMENDED, IN EXCESS OF TWENTY-FIVE THOUSAND DOLLARS DURING A FISCAL YEAR OR DO NOT RECEIVE CONTRIBUTIONS FROM MORE THAN TEN PERSONS DURING A FISCAL YEAR.

(7) FILING FEES FOR THE ANNUAL REGISTRATION OF A CHARITABLE ORGANIZATION AND FOR AMENDMENTS THERETO SHALL BE ESTABLISHED BY THE SECRETARY OF STATE IN AN AMOUNT THAT REFLECTS THE COSTS OF THE SECRETARY OF STATE IN ADMINISTERING THE PROVISIONS OF THIS ARTICLE. ALL SUCH FEES COLLECTED SHALL BE DEPOSITED IN THE DEPARTMENT OF STATE CASH FUND CREATED IN SECTION 24-21-104 (3) (b), C.R.S.

(8) THE SECRETARY OF STATE SHALL EXAMINE EACH REGISTRATION TO DETERMINE WHETHER THE APPLICABLE REQUIREMENTS OF THIS SECTION ARE SATISFIED. THE SECRETARY OF STATE SHALL NOTIFY THE CHARITABLE ORGANIZATION WITHIN TEN DAYS AFTER RECEIPT OF ITS APPLICATION OF ANY DEFICIENCIES THEREIN, OTHERWISE THE REGISTRATION SHALL BE DEEMED APPROVED AS FILED. THE SECRETARY OF STATE SHALL ISSUE EACH APPROVED APPLICANT A REGISTRATION NUMBER.

(9) NO CHARITABLE ORGANIZATION THAT IS REQUIRED TO REGISTER UNDER THIS CHAPTER SHALL, PRIOR TO REGISTRATION, SOLICIT CONTRIBUTIONS IN THIS STATE BY ANY MEANS, HAVE CONTRIBUTIONS SOLICITED IN THIS STATE ON ITS BEHALF BY ANY

OTHER PERSON OR ENTITY, OR PARTICIPATE IN A CHARITABLE SALES PROMOTION.

(10) ALL INFORMATION FILED PURSUANT TO THIS SECTION, EXCEPT FOR RESIDENTIAL ADDRESSES AND TELEPHONE NUMBERS OF INDIVIDUALS AND SCHEDULES OF CONTRIBUTORS LISTED ON THE FEDERAL FORM 990 OR ITS EQUIVALENT, SHALL BE CONSIDERED PUBLIC RECORDS FOR PURPOSES OF THE PUBLIC RECORDS LAW, PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S.

SECTION 3. Article 16 of title 6, Colorado Revised Statutes, is amended BY THE ADDITION OF THE FOLLOWING NEW SECTIONS to read:

6-16-104.3. Professional fundraising consultants - annual registration - fees.

(1) NO PERSON SHALL ACT AS A PROFESSIONAL FUNDRAISING CONSULTANT WITHOUT FIRST COMPLYING WITH THE REQUIREMENTS OF THIS SECTION.

(2) EVERY CONTRACT BETWEEN A PROFESSIONAL FUNDRAISING CONSULTANT AND A CHARITABLE ORGANIZATION OR SPONSOR SHALL BE IN WRITING AND SIGNED BY AT LEAST TWO AUTHORIZED OFFICIALS OF THE CHARITABLE ORGANIZATION. THE PROFESSIONAL FUNDRAISING CONSULTANT SHALL PROVIDE A COPY OF THE CONTRACT TO THE CHARITABLE ORGANIZATION PRIOR TO THE PERFORMANCE OF ANY MATERIAL SERVICES UNDER THE CONTRACT AND SHALL MAKE A COPY OF THE CONTRACT AVAILABLE TO THE SECRETARY OF STATE UPON REQUEST. THE CONTRACT SHALL CONTAIN ALL OF THE FOLLOWING PROVISIONS:

(a) A STATEMENT OF THE CHARITABLE PURPOSE FOR WHICH THE SOLICITATION CAMPAIGN IS BEING CONDUCTED;

(b) A STATEMENT OF THE RESPECTIVE OBLIGATIONS OF THE PROFESSIONAL FUNDRAISING CONSULTANT AND THE CHARITABLE ORGANIZATION;

(c) WHETHER THE PROFESSIONAL FUNDRAISING CONSULTANT WILL AT ANY TIME HAVE CUSTODY OR CONTROL OF CONTRIBUTIONS;

(d) A CLEAR STATEMENT OF THE FEES THAT WILL BE PAID TO THE PROFESSIONAL FUNDRAISING CONSULTANT OR, IF THE FEES ARE TO BE CALCULATED BASED ON A PERCENTAGE OF CONTRIBUTIONS OR OTHER FORMULA, A CLEAR STATEMENT OF THE PERCENTAGE OR OTHER FORMULA; AND

(e) THE EFFECTIVE AND TERMINATION DATES OF THE CONTRACT.

(3) A PROFESSIONAL FUNDRAISING CONSULTANT WHO AT ANY TIME HAS OR WILL HAVE CUSTODY OR CONTROL OF CONTRIBUTIONS FROM A SOLICITATION CONDUCTED ON BEHALF OF A CHARITABLE ORGANIZATION IN THIS STATE SHALL ALSO COMPLY WITH THE REGISTRATION REQUIREMENTS OF THIS SECTION BEFORE PERFORMING ANY MATERIAL SERVICES WITH RESPECT TO SUCH SOLICITATION.

(4) APPLICATIONS FOR REGISTRATION OR RENEWAL OF REGISTRATION SHALL BE SUBMITTED ON A FORM PRESCRIBED BY THE SECRETARY OF STATE, SHALL BE SIGNED UNDER OATH, AND SHALL INCLUDE THE FOLLOWING INFORMATION:

(a) THE ADDRESS AND TELEPHONE NUMBER OF THE PRINCIPAL PLACE OF BUSINESS

OF THE APPLICANT AND THE ADDRESS AND TELEPHONE NUMBER OF ANY OFFICE LOCATED IN THIS STATE IF THE PRINCIPAL PLACE OF BUSINESS IS LOCATED OUTSIDE THE STATE;

(b) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON THAT HAS CUSTODY OF THE APPLICANT'S FINANCIAL RECORDS;

(c) THE NAMES AND ADDRESSES OF THE OWNERS, OFFICERS, AND EXECUTIVE PERSONNEL OF THE APPLICANT;

(d) WHETHER THE APPLICANT OR ANY OF ITS OWNERS, OFFICERS, DIRECTORS, TRUSTEES, OR EMPLOYEES HAVE, WITHIN THE IMMEDIATELY PRECEDING FIVE YEARS, BEEN CONVICTED OF, FOUND GUILTY OF, PLED GUILTY OR NOLO CONTENDERE TO, BEEN ADJUDICATED A JUVENILE VIOLATOR OF, OR BEEN INCARCERATED FOR ANY FELONY INVOLVING FRAUD, THEFT, LARCENY, EMBEZZLEMENT, FRAUDULENT CONVERSION, OR MISAPPROPRIATION OF PROPERTY OR ANY CRIME ARISING FROM THE CONDUCT OF A SOLICITATION FOR A CHARITABLE ORGANIZATION OR SPONSOR, UNDER THE LAWS OF THIS OR ANY OTHER STATE OR OF THE UNITED STATES, AND IF SO, THE NAME OF SUCH PERSON, THE NATURE OF THE OFFENSE, THE DATE OF THE OFFENSE, THE COURT HAVING JURISDICTION IN THE CASE, THE DATE OF CONVICTION OR OTHER DISPOSITION, AND THE DISPOSITION OF THE OFFENSE;

(e) WHETHER THE APPLICANT OR ANY OF ITS OWNERS, OFFICERS, DIRECTORS, TRUSTEES, OR EMPLOYEES HAVE BEEN ENJOINED FROM VIOLATING ANY LAW RELATING TO A CHARITABLE SOLICITATION OR FROM ENGAGING IN CHARITABLE SOLICITATION AND, IF SO, THE NAME OF SUCH PERSON, THE DATE OF THE INJUNCTION, AND THE COURT ISSUING THE INJUNCTION;

(f) WHETHER THE APPLICANT IS REGISTERED WITH OR OTHERWISE AUTHORIZED BY ANY OTHER STATE TO ACT AS A PROFESSIONAL FUNDRAISING CONSULTANT; AND

(g) WHETHER THE APPLICANT HAS HAD SUCH REGISTRATION OR AUTHORITY DENIED, SUSPENDED, REVOKED, OR ENJOINED BY ANY COURT OR OTHER GOVERNMENTAL AUTHORITY IN THIS STATE OR ANOTHER STATE.

(5) THE APPLICATION FOR REGISTRATION OR FOR RENEWAL SHALL BE ACCOMPANIED BY THE FEE ESTABLISHED PURSUANT TO SUBSECTION (12) OF THIS SECTION. A PROFESSIONAL FUNDRAISING CONSULTANT THAT IS A PARTNERSHIP, CORPORATION, OR LIMITED LIABILITY COMPANY MAY REGISTER FOR AND PAY A SINGLE FEE ON BEHALF OF ALL ITS PARTNERS, MEMBERS, OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES. IN SUCH CASE, THE NAMES AND STREET ADDRESSES OF ALL THE PARTNERS, MEMBERS, OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS OF THE FUNDRAISING CONSULTANT AND ALL OTHER PERSONS WITH WHOM THE FUNDRAISING CONSULTANT HAS CONTRACTED TO WORK UNDER ITS DIRECTION SHALL BE LISTED IN THE APPLICATION OR FURNISHED TO THE SECRETARY OF STATE WITHIN FIVE DAYS AFTER THE DATE OF EMPLOYMENT OR CONTRACTUAL ARRANGEMENT.

(6) EACH REGISTRATION IS VALID FOR A PERIOD OF ONE YEAR AND MAY BE RENEWED, ON OR BEFORE THE ANNIVERSARY DATE, FOR AN ADDITIONAL ONE-YEAR PERIOD UPON APPLICATION TO THE SECRETARY OF STATE AND PAYMENT OF THE REGISTRATION FEE. ANY MATERIAL CHANGES TO THE INFORMATION CONTAINED IN

THE APPLICATION FOR REGISTRATION SHALL BE REPORTED IN WRITING TO THE SECRETARY OF STATE WITHIN THIRTY DAYS.

(7) THE SECRETARY OF STATE SHALL EXAMINE EACH REGISTRATION TO DETERMINE WHETHER THE APPLICABLE REQUIREMENTS OF THIS SECTION ARE SATISFIED. THE SECRETARY OF STATE SHALL NOTIFY THE APPLICANT WITHIN TEN DAYS AFTER RECEIPT OF ITS APPLICATION OF ANY DEFICIENCIES THEREIN, OTHERWISE THE APPLICATION SHALL BE DEEMED APPROVED AS FILED. THE SECRETARY OF STATE SHALL ISSUE EACH APPROVED APPLICANT A REGISTRATION NUMBER.

(8) IF A PROFESSIONAL FUNDRAISING CONSULTANT WILL HAVE CUSTODY OF ANY CONTRIBUTION RECEIVED DURING A SOLICITATION CAMPAIGN, EACH SUCH CONTRIBUTION SHALL BE DEPOSITED WITHIN TWO BUSINESS DAYS AFTER ITS RECEIPT IN AN ACCOUNT AT A BANK OR OTHER FEDERALLY INSURED FINANCIAL INSTITUTION. THE ACCOUNT SHALL BE IN THE NAME OF THE CHARITABLE ORGANIZATION WITH WHOM THE PROFESSIONAL FUNDRAISING CONSULTANT HAS CONTRACTED, AND THE CHARITABLE ORGANIZATION SHALL HAVE SOLE CONTROL OVER ALL WITHDRAWALS FROM THE ACCOUNT.

(9) WITHIN NINETY DAYS AFTER A SOLICITATION CAMPAIGN HAS BEEN CONCLUDED, AND ON THE ANNIVERSARY OF THE COMMENCEMENT OF A SOLICITATION CAMPAIGN LASTING MORE THAN ONE YEAR, THE PROFESSIONAL FUNDRAISING CONSULTANT SHALL PROVIDE TO THE CHARITABLE ORGANIZATION A FINANCIAL REPORT OF THE CAMPAIGN, INCLUDING GROSS PROCEEDS AND AN ITEMIZATION OF ALL EXPENSES OR DISBURSEMENTS FOR ANY PURPOSE. THE REPORT SHALL BE SIGNED BY THE PROFESSIONAL FUNDRAISING CONSULTANT OR, IF THE PROFESSIONAL FUNDRAISING CONSULTANT IS NOT AN INDIVIDUAL, BY AN AUTHORIZED OFFICER OR AGENT OF THE PROFESSIONAL FUNDRAISING CONSULTANT, WHO SHALL CERTIFY THAT THE FINANCIAL REPORT IS TRUE AND COMPLETE TO THE BEST OF THE PERSON'S KNOWLEDGE. THE PROFESSIONAL FUNDRAISING CONSULTANT SHALL PROVIDE A COPY OF THE REPORT TO THE SECRETARY OF STATE UPON REQUEST.

(10) NO PERSON MAY ACT AS A PROFESSIONAL FUNDRAISING CONSULTANT AND NO PROFESSIONAL FUNDRAISING CONSULTANT REQUIRED TO BE REGISTERED UNDER THIS SECTION SHALL KNOWINGLY EMPLOY ANY PERSON AS AN OFFICER, TRUSTEE, DIRECTOR, OR EMPLOYEE IF SUCH PERSON, WITHIN THE IMMEDIATELY PRECEDING FIVE YEARS, HAS BEEN CONVICTED OF, FOUND GUILTY OF, PLED GUILTY OR NOLO CONTENDERE TO, BEEN ADJUDICATED A JUVENILE VIOLATOR OF, OR BEEN INCARCERATED FOR ANY FELONY INVOLVING FRAUD, THEFT, LARCENY, EMBEZZLEMENT, FRAUDULENT CONVERSION, OR MISAPPROPRIATION OF PROPERTY OR ANY CRIME ARISING FROM THE CONDUCT OF A SOLICITATION FOR A CHARITABLE ORGANIZATION OR SPONSOR, UNDER THE LAWS OF THIS OR ANY OTHER STATE OR OF THE UNITED STATES, OR HAS BEEN ENJOINED WITHIN THE IMMEDIATELY PRECEDING FIVE YEARS UNDER THE LAWS OF THIS OR ANY OTHER STATE OR OF THE UNITED STATES FROM ENGAGING IN DECEPTIVE CONDUCT RELATING TO CHARITABLE SOLICITATIONS.

(11) ALL INFORMATION FILED PURSUANT TO THIS SECTION, EXCEPT FOR RESIDENTIAL ADDRESSES AND TELEPHONE NUMBERS OF INDIVIDUALS, SHALL BE CONSIDERED PUBLIC RECORDS FOR PURPOSES OF THE PUBLIC RECORDS LAW, PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S.

(12) FILING FEES FOR THE ANNUAL REGISTRATION OF A PROFESSIONAL FUNDRAISING CONSULTANT AND FOR AMENDMENTS THERETO SHALL BE ESTABLISHED BY THE SECRETARY OF STATE IN AN AMOUNT THAT REFLECTS THE COSTS OF THE SECRETARY OF STATE IN ADMINISTERING THE PROVISIONS OF THIS ARTICLE. ALL SUCH FEES COLLECTED SHALL BE DEPOSITED IN THE DEPARTMENT OF STATE CASH FUND CREATED IN SECTION 24-21-104 (3) (b), C.R.S.

6-16-104.6. Paid solicitors - annual registration - filing of contracts - fees.

(1) (a) NO PERSON SHALL ACT AS A PAID SOLICITOR WITHOUT FIRST COMPLYING WITH THE REQUIREMENTS OF THIS SECTION.

(b) EVERY PAID SOLICITOR SHALL REGISTER IN ACCORDANCE WITH SUBSECTION (3) OF THIS SECTION BEFORE SOLICITING CONTRIBUTIONS IN THIS STATE.

(2) EVERY CONTRACT BETWEEN A PAID SOLICITOR AND A CHARITABLE ORGANIZATION OR SPONSOR FOR EACH SOLICITATION CAMPAIGN SHALL BE IN WRITING AND SHALL BE SIGNED BY AT LEAST TWO AUTHORIZED OFFICIALS OF THE CHARITABLE ORGANIZATION OR SPONSOR, ONE OF WHOM SHALL BE A MEMBER OF THE ORGANIZATION'S GOVERNING BODY, AND BY THE PAID SOLICITOR IF THE PAID SOLICITOR IS AN INDIVIDUAL OR BY THE AUTHORIZED CONTRACTING OFFICER FOR THE PAID SOLICITOR IF THE PAID SOLICITOR IS NOT AN INDIVIDUAL. THE PAID SOLICITOR SHALL PROVIDE A COPY OF THE CONTRACT TO THE CHARITABLE ORGANIZATION PRIOR TO THE PERFORMANCE OF ANY MATERIAL SERVICES UNDER THE CONTRACT AND SHALL MAKE A COPY OF THE CONTRACT AVAILABLE TO THE SECRETARY OF STATE UPON REQUEST. THE CONTRACT SHALL CONTAIN ALL OF THE FOLLOWING PROVISIONS:

(a) A STATEMENT OF THE CHARITABLE PURPOSE FOR WHICH THE SOLICITATION CAMPAIGN IS BEING CONDUCTED;

(b) A STATEMENT OF THE RESPECTIVE OBLIGATIONS OF THE PAID SOLICITOR AND THE CHARITABLE ORGANIZATION;

(c) A STATEMENT OF THE SPECIFIED MINIMUM PERCENTAGE, IF ANY, OF THE GROSS RECEIPTS FROM CONTRIBUTIONS THAT WILL BE REMITTED TO THE CHARITABLE ORGANIZATION, OR, IF THE SOLICITATION INVOLVES THE SALE OF GOODS, SERVICES, OR TICKETS TO A FUNDRAISING EVENT, THE SPECIFIED MINIMUM PERCENTAGE, IF ANY, OF THE PURCHASE PRICE THAT WILL BE REMITTED TO THE CHARITABLE ORGANIZATION. ANY STATED PERCENTAGE SHALL EXCLUDE ANY AMOUNT PAYABLE BY THE CHARITABLE ORGANIZATION AS FUNDRAISING COSTS.

(d) A STATEMENT OF THE SPECIFIED PERCENTAGE, IF ANY, OF GROSS REVENUE THAT CONSTITUTES THE PAID SOLICITOR'S COMPENSATION. IF THE PAID SOLICITOR'S COMPENSATION IS NOT CONTINGENT UPON THE NUMBER OF CONTRIBUTIONS OR THE AMOUNT RECEIVED, THE PAID SOLICITOR'S COMPENSATION SHALL BE EXPRESSED AS A REASONABLE ESTIMATE OF THE PERCENTAGE OF GROSS REVENUE, AND THE CONTRACT SHALL CLEARLY DISCLOSE THE ASSUMPTIONS UPON WHICH SUCH ESTIMATE IS BASED. THE STATED ASSUMPTIONS SHALL BE BASED UPON ALL THE RELEVANT FACTS KNOWN TO THE PAID SOLICITOR REGARDING THE SOLICITATION TO BE CONDUCTED.

(e) THE EFFECTIVE AND TERMINATION DATES OF THE CONTRACT.

(3) APPLICATIONS FOR REGISTRATION OR RENEWAL OF REGISTRATION SHALL BE SUBMITTED ON A FORM PRESCRIBED BY THE SECRETARY OF STATE, SHALL BE SIGNED UNDER OATH, AND SHALL INCLUDE THE FOLLOWING INFORMATION:

(a) THE ADDRESS AND TELEPHONE NUMBER OF THE PRINCIPAL PLACE OF BUSINESS OF THE APPLICANT AND THE ADDRESS AND TELEPHONE NUMBER OF ANY OFFICE LOCATED IN THIS STATE IF THE PRINCIPAL PLACE OF BUSINESS IS LOCATED OUTSIDE THE STATE;

(b) THE FORM OF THE APPLICANT'S BUSINESS AND, IF THE APPLICANT IS NOT AN INDIVIDUAL, THE PLACE AND DATE WHEN THE APPLICANT WAS INCORPORATED OR OTHERWISE LEGALLY ESTABLISHED;

(c) THE NAME, ADDRESS, AND TELEPHONE NUMBER OF THE PERSON THAT HAS CUSTODY OF THE APPLICANT'S FINANCIAL RECORDS;

(d) IF THE APPLICANT IS NOT AN INDIVIDUAL, THE NAMES AND ADDRESSES OF THE OWNERS, OFFICERS, AND EXECUTIVE PERSONNEL OF THE APPLICANT;

(e) THE NAMES OF ALL PERSONS IN CHARGE OF ANY SOLICITATION ACTIVITY CONDUCTED IN THIS STATE BY THE APPLICANT OR ON THE APPLICANT'S BEHALF;

(f) WHETHER THE APPLICANT, ANY PERSON WITH A CONTROLLING INTEREST IN THE APPLICANT, OR ANY OF THE APPLICANT'S OWNERS, OFFICERS, DIRECTORS, TRUSTEES, EMPLOYEES, OR AGENTS HAS, WITHIN THE IMMEDIATELY PRECEDING FIVE YEARS, BEEN CONVICTED OF, FOUND GUILTY OF, PLED GUILTY OR NOLO CONTENDERE TO, BEEN ADJUDICATED A JUVENILE VIOLATOR OF, OR BEEN INCARCERATED FOR ANY FELONY INVOLVING FRAUD, THEFT, LARCENY, EMBEZZLEMENT, FRAUDULENT CONVERSION, OR MISAPPROPRIATION OF PROPERTY OR ANY CRIME ARISING FROM THE CONDUCT OF A SOLICITATION FOR A CHARITABLE ORGANIZATION OR SPONSOR, UNDER THE LAWS OF THIS OR ANY OTHER STATE OR OF THE UNITED STATES, AND IF SO, THE NAME OF SUCH PERSON, THE NATURE OF THE OFFENSE, THE DATE OF THE OFFENSE, THE COURT HAVING JURISDICTION IN THE CASE, THE DATE OF CONVICTION OR OTHER DISPOSITION, AND THE DISPOSITION OF THE OFFENSE;

(g) WHETHER THE APPLICANT OR ANY OF ITS OWNERS, OFFICERS, DIRECTORS, TRUSTEES, OR EMPLOYEES HAVE BEEN ENJOINED FROM VIOLATING ANY LAW RELATING TO A CHARITABLE SOLICITATION AND, IF SO, THE NAME OF SUCH PERSON, THE DATE OF THE INJUNCTION, AND THE COURT ISSUING THE INJUNCTION;

(h) WHETHER THE APPLICANT IS REGISTERED WITH OR OTHERWISE AUTHORIZED BY ANY OTHER STATE TO ACT AS A PAID SOLICITOR; AND

(i) WHETHER THE APPLICANT HAS HAD SUCH REGISTRATION OR AUTHORITY DENIED, SUSPENDED, REVOKED, OR ENJOINED BY ANY COURT OR OTHER GOVERNMENTAL AUTHORITY IN THIS STATE OR ANOTHER STATE.

(4) THE APPLICATION FOR REGISTRATION OR FOR RENEWAL SHALL BE ACCOMPANIED BY THE FEE ESTABLISHED PURSUANT TO SUBSECTION (12) OF THIS SECTION. A PAID SOLICITOR THAT IS A PARTNERSHIP, CORPORATION, OR LIMITED LIABILITY COMPANY MAY REGISTER FOR AND PAY A SINGLE FEE ON BEHALF OF ALL ITS

PARTNERS, MEMBERS, OFFICERS, DIRECTORS, AGENTS, AND EMPLOYEES. IN SUCH CASE, THE NAMES AND STREET ADDRESSES OF ALL THE PARTNERS, MEMBERS, OFFICERS, DIRECTORS, EMPLOYEES, AND AGENTS OF THE PAID SOLICITOR AND ALL OTHER PERSONS WITH WHOM THE PAID SOLICITOR HAS CONTRACTED TO WORK UNDER ITS DIRECTION SHALL BE LISTED IN THE APPLICATION OR FURNISHED TO THE SECRETARY OF STATE WITHIN FIVE DAYS AFTER THE DATE OF EMPLOYMENT OR CONTRACTUAL ARRANGEMENT.

(5) EACH REGISTRATION IS VALID FOR A PERIOD OF ONE YEAR AND MAY BE RENEWED, ON OR BEFORE THE ANNIVERSARY DATE, FOR AN ADDITIONAL ONE-YEAR PERIOD UPON APPLICATION TO THE SECRETARY OF STATE AND PAYMENT OF THE REGISTRATION FEE. ANY MATERIAL CHANGES TO THE INFORMATION CONTAINED IN THE APPLICATION FOR REGISTRATION SHALL BE REPORTED IN WRITING TO THE SECRETARY OF STATE WITHIN THIRTY DAYS.

(6) THE SECRETARY OF STATE SHALL EXAMINE EACH REGISTRATION TO DETERMINE WHETHER THE APPLICABLE REQUIREMENTS OF THIS SECTION ARE SATISFIED. THE SECRETARY OF STATE SHALL NOTIFY THE APPLICANT WITHIN TEN DAYS AFTER RECEIPT OF ITS APPLICATION OF ANY DEFICIENCIES THEREIN, OTHERWISE THE APPLICATION SHALL BE DEEMED APPROVED AS FILED. THE SECRETARY OF STATE SHALL ISSUE EACH APPROVED APPLICANT A REGISTRATION NUMBER.

(7) NO LATER THAN FIFTEEN DAYS BEFORE THE COMMENCEMENT OF A SOLICITATION CAMPAIGN, THE PAID SOLICITOR SHALL FILE WITH THE SECRETARY OF STATE A COMPLETED SOLICITATION NOTICE, ON FORMS PRESCRIBED BY THE SECRETARY OF STATE, CONTAINING THE FOLLOWING INFORMATION:

(a) A SUMMARY OF THE GOVERNING CONTRACT, AS SPECIFIED IN SUBSECTION (2) OF THIS SECTION;

(b) THE FULL LEGAL NAME AND ADDRESS OF THE PAID SOLICITOR WHO WILL BE CONDUCTING THE SOLICITATION CAMPAIGN AND THE FULL LEGAL NAME AND ADDRESS OF EACH PERSON RESPONSIBLE FOR DIRECTING AND SUPERVISING THE CONDUCT OF THE CAMPAIGN;

(c) A STATEMENT, IN ACCORDANCE WITH SECTION 6-16-111 (1) (f) AND (1) (g), OF THE NATURE OF THE INTENDED SOLICITATION CAMPAIGN, INCLUDING THE MEANS OF COMMUNICATION TO BE USED IN THE CAMPAIGN, THE PROJECTED COMMENCEMENT AND CONCLUSION DATES OF THE CAMPAIGN, AND A DESCRIPTION OF ANY EVENT THE CAMPAIGN WILL LEAD UP TO;

(d) A FULL AND FAIR STATEMENT, IN ACCORDANCE WITH SECTION 6-16-111 (1) (f) AND (1) (g), OF THE CHARITABLE PURPOSE FOR WHICH THE SOLICITATION CAMPAIGN IS BEING CARRIED OUT;

(e) EACH LOCATION AND TELEPHONE NUMBER, IF APPLICABLE, FROM WHICH THE SOLICITATION IS TO BE CONDUCTED;

(f) A STATEMENT AS TO WHETHER THE PAID SOLICITOR WILL AT ANY TIME HAVE CUSTODY OF CONTRIBUTIONS;

(g) THE ACCOUNT NUMBER AND LOCATION OF EACH BANK ACCOUNT WHERE RECEIPTS FROM THE CAMPAIGN ARE TO BE DEPOSITED;

(h) THE ADDRESS WHERE RECORDS AND ACCOUNTING CONCERNING THE SOLICITATION CAMPAIGN ARE BEING KEPT; AND

(i) A CERTIFICATION STATEMENT, SIGNED BY AN OFFICER OF THE CHARITABLE ORGANIZATION ON THE BEHALF OF WHOM THE SOLICITATION CAMPAIGN IS TO OCCUR, STATING THAT THE SOLICITATION NOTICE AND ACCOMPANYING MATERIAL ARE TRUE AND COMPLETE TO THE BEST OF HIS OR HER KNOWLEDGE.

(8) IF A PAID SOLICITOR WILL HAVE CUSTODY OF ANY CONTRIBUTION RECEIVED DURING A SOLICITATION CAMPAIGN, EACH SUCH CONTRIBUTION SHALL BE DEPOSITED WITHIN TWO BUSINESS DAYS AFTER ITS RECEIPT IN AN ACCOUNT AT A BANK OR OTHER FEDERALLY INSURED FINANCIAL INSTITUTION. THE ACCOUNT SHALL BE IN THE NAME OF THE CHARITABLE ORGANIZATION WITH WHOM THE PAID SOLICITOR HAS CONTRACTED, AND THE CHARITABLE ORGANIZATION SHALL HAVE SOLE CONTROL OVER ALL WITHDRAWALS FROM THE ACCOUNT.

(9) WITHIN NINETY DAYS AFTER A SOLICITATION CAMPAIGN HAS BEEN CONCLUDED, AND ON THE ANNIVERSARY OF THE COMMENCEMENT OF A SOLICITATION CAMPAIGN LASTING MORE THAN ONE YEAR, THE PAID SOLICITOR SHALL PROVIDE TO THE CHARITABLE ORGANIZATION AND FILE WITH THE SECRETARY OF STATE A FINANCIAL REPORT OF THE CAMPAIGN, INCLUDING GROSS PROCEEDS AND AN ITEMIZATION OF ALL EXPENSES OR DISBURSEMENTS FOR ANY PURPOSE. THE REPORT SHALL BE ON A FORM PRESCRIBED BY THE SECRETARY OF STATE AND SHALL BE SIGNED BY THE PAID SOLICITOR, OR, IF THE PAID SOLICITOR IS NOT AN INDIVIDUAL, BY AN AUTHORIZED OFFICIAL OF THE PAID SOLICITOR, AND BY AN AUTHORIZED OFFICIAL OF THE CHARITABLE ORGANIZATION. THE PERSONS SIGNING THE REPORT SHALL CERTIFY THAT THE FINANCIAL REPORT IS TRUE AND COMPLETE TO THE BEST OF THEIR KNOWLEDGE.

(10) NO PERSON MAY ACT AS A PAID SOLICITOR AND NO PAID SOLICITOR REQUIRED TO BE REGISTERED UNDER THIS SECTION SHALL KNOWINGLY EMPLOY ANY PERSON AS AN OFFICER, TRUSTEE, DIRECTOR, OR EMPLOYEE IF SUCH PERSON, WITHIN THE IMMEDIATELY PRECEDING FIVE YEARS, HAS BEEN CONVICTED OF, FOUND GUILTY OF, PLED GUILTY OR NOLO CONTENDERE TO, BEEN ADJUDICATED A JUVENILE VIOLATOR OF, OR BEEN INCARCERATED FOR ANY FELONY INVOLVING FRAUD, THEFT, LARCENY, EMBEZZLEMENT, FRAUDULENT CONVERSION, OR MISAPPROPRIATION OF PROPERTY OR ANY CRIME ARISING FROM THE CONDUCT OF A SOLICITATION FOR A CHARITABLE ORGANIZATION OR SPONSOR, UNDER THE LAWS OF THIS OR ANY OTHER STATE OR OF THE UNITED STATES, OR HAS BEEN ENJOINED WITHIN THE IMMEDIATELY PRECEDING FIVE YEARS UNDER THE LAWS OF THIS OR ANY OTHER STATE OR OF THE UNITED STATES FROM ENGAGING IN DECEPTIVE CONDUCT RELATING TO CHARITABLE SOLICITATIONS.

(11) ALL INFORMATION FILED PURSUANT TO THIS SECTION, EXCEPT FOR RESIDENTIAL ADDRESSES AND TELEPHONE NUMBERS OF INDIVIDUALS, SHALL BE CONSIDERED PUBLIC RECORDS FOR PURPOSES OF THE PUBLIC RECORDS LAW, PART 2 OF ARTICLE 72 OF TITLE 24, C.R.S.

(12) FILING FEES FOR THE ANNUAL REGISTRATION OF A PAID SOLICITOR, AMENDMENTS THERETO, SOLICITATION NOTICES, AND FINANCIAL REPORTS SHALL BE ESTABLISHED BY THE SECRETARY OF STATE IN AMOUNTS THAT REFLECTS THE COSTS OF THE SECRETARY OF STATE IN ADMINISTERING THE PROVISIONS OF THIS ARTICLE. ALL SUCH FEES COLLECTED SHALL BE DEPOSITED IN THE DEPARTMENT OF STATE CASH FUND CREATED IN SECTION 24-21-104 (3) (b), C.R.S.

6-16-110.5. Secretary of state - dissemination of information - cooperation with other agencies. (1) THE SECRETARY OF STATE SHALL TAKE STEPS TO:

(a) PUBLICIZE THE REQUIREMENTS OF THIS ARTICLE AND OTHERWISE ASSIST CHARITABLE ORGANIZATIONS, PROFESSIONAL FUNDRAISING CONSULTANTS, AND PAID SOLICITORS IN COMPLYING WITH THIS ARTICLE;

(b) COMPILE AND PUBLISH, ON AN ANNUAL BASIS, THE INFORMATION PROVIDED BY CHARITABLE ORGANIZATIONS, PROFESSIONAL FUNDRAISING CONSULTANTS, AND PAID SOLICITORS UNDER THIS ARTICLE TO ASSIST THE PUBLIC IN MAKING INFORMED DECISIONS ABOUT CHARITABLE SOLICITATION AND TO ASSIST CHARITABLE ORGANIZATIONS IN MAKING INFORMED DECISIONS ABOUT CONTRACTING WITH PAID SOLICITORS.

(2) THE SECRETARY OF STATE MAY EXCHANGE WITH APPROPRIATE AUTHORITIES OF THIS STATE, ANY OTHER STATE, AND THE UNITED STATES INFORMATION WITH RESPECT TO CHARITABLE ORGANIZATIONS, PROFESSIONAL FUNDRAISING CONSULTANTS, COMMERCIAL COVENTURERS, AND PAID SOLICITORS.

(3) THE SECRETARY OF STATE SHALL HAVE THE AUTHORITY TO PROMULGATE RULES PROVIDING FOR THE ONLINE AVAILABILITY OF FORMS REQUIRED TO BE FILED PURSUANT TO SECTIONS 6-16-104 TO 6-16-104.6 AND FOR THE ELECTRONIC FILING OF REQUIRED FORMS, INCLUDING THE ACCEPTANCE OF ELECTRONIC SIGNATURES. THE SECRETARY OF STATE SHALL HAVE THE AUTHORITY TO MANDATE ELECTRONIC FILING AND TO PROVIDE, IN THE SECRETARY OF STATE'S DISCRETION, FOR EXCEPTIONS TO MANDATORY ELECTRONIC FILING.

SECTION 4. The introductory portion to 6-16-105 (1) and 6-16-105 (1) (a), (1) (b), (1) (c), (1) (d), and (1) (e), Colorado Revised Statutes, are amended, and the said 6-16-105 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

6-16-105. Written confirmation of contribution - disclosures. (1) A paid solicitor who makes an oral solicitation by telephone, door-to-door, or otherwise shall furnish to each contributor, prior to collecting or attempting to collect any contribution, a written confirmation of the expected contribution, which CONFIRMATION shall contain the following information clearly and conspicuously:

(a) The full legal name, address, ~~and~~ telephone number, AND REGISTRATION NUMBER of the employer of the individual paid solicitor who directly communicated with the contributor;

(b) A disclosure that the contribution is not tax-deductible, if such disclosure is applicable, OR, IF THE SOLICITOR MAINTAINS THAT THE CONTRIBUTION IS

TAX-DEDUCTIBLE IN WHOLE OR IN PART, THE PORTION OF THE CONTRIBUTION THAT THE SOLICITOR MAINTAINS IS TAX-DEDUCTIBLE;

(c) A disclosure in capital letters of no less than ten-point, bold-faced type identifying the paid solicitor as a paid solicitor ~~or professional fund raiser~~ AND CONTAINING THE STATEMENT: "REGISTRATION BY THE SECRETARY OF STATE IS NOT AN ENDORSEMENT OF EITHER THE PAID SOLICITOR OR THE ORGANIZATION OR CAUSE THE SOLICITOR REPRESENTS."

(d) The address and telephone number of the telephone room or other location from which the solicitation has been or is being conducted if such information is different than that which is provided pursuant to paragraph (a) of this subsection (1); except that this information is not required to be provided if telephone solicitations are being conducted from more than one location and from the residences of the individual paid solicitor; ~~or professional fund raiser;~~

(e) The name, address, ~~and~~ telephone number, AND REGISTRATION NUMBER of any charitable organization connected with the solicitation or any organization the name or symbol of which has been used in aid of or in the course of such solicitation;

(h) A STATEMENT THAT COLORADO RESIDENTS MAY OBTAIN COPIES OF REGISTRATION AND FINANCIAL DOCUMENTS FROM THE OFFICE OF THE SECRETARY OF STATE, WITH A CURRENT TELEPHONE NUMBER AND WEB SITE ADDRESS FOR OBTAINING SUCH DOCUMENTS FROM THE SECRETARY OF STATE.

SECTION 5. 6-16-105.3 (1) (d), Colorado Revised Statutes, is amended, and the said 6-16-105.3 (1) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

6-16-105.3. Solicitations by telephone. (1) In addition to any other disclosure required for solicitations by telephone under section 6-16-105, a paid solicitor as defined in section 6-16-103 (7) who makes an oral solicitation to any person by a telephone call received in Colorado regarding a charitable contribution shall make the following oral disclosures as part of the telephone solicitation:

~~(d) A statement that the person to whom the solicitation is made shall have the right to rescind any agreement or pledge to make a charitable contribution within the time period specified in section 6-16-106;~~

(g) UPON REQUEST BY A PERSON FROM WHOM A CHARITABLE CONTRIBUTION IS SOUGHT, THE REGISTRATION NUMBERS OF THE CHARITABLE ORGANIZATION AND THE PAID SOLICITOR.

SECTION 6. Repeal. 6-16-109 (3), Colorado Revised Statutes, is repealed as follows:

~~**6-16-109. Records - accounts.** (3) Each monetary contribution in the custody of a paid solicitor shall be deposited in an account at a bank or other federally insured financial institution in its entirety and within ten days after its receipt.~~

SECTION 7. The introductory portion to 6-16-111 (1), Colorado Revised

Statutes, is amended, and the said 6-16-111 (1) is further amended BY THE ADDITION OF THE FOLLOWING NEW PARAGRAPHS, to read:

6-16-111. Violations. (1) A person commits charitable fraud if he OR SHE:

(h) REPRESENTS OR CAUSES ANOTHER TO REPRESENT THAT CONTRIBUTIONS ARE TAX-DEDUCTIBLE UNLESS THEY SO QUALIFY UNDER THE FEDERAL INTERNAL REVENUE CODE;

(i) REPRESENTS OR CAUSES ANOTHER TO REPRESENT THAT A CONTRIBUTION TO A CHARITABLE ORGANIZATION WILL BE USED FOR A PURPOSE OTHER THAN THE PURPOSE FOR WHICH THE CHARITABLE ORGANIZATION ACTUALLY INTENDS TO USE SUCH CONTRIBUTION;

(j) REPRESENTS OR CAUSES ANOTHER TO REPRESENT THAT A GREATER PORTION OF THE CONTRIBUTION WILL GO TO A CHARITABLE ORGANIZATION THAN THE ACTUAL PORTION THAT WILL GO TO SUCH ORGANIZATION;

(k) REPRESENTS OR CAUSES ANOTHER TO REPRESENT THAT THE SOLICITOR IS LOCATED IN A GEOGRAPHIC AREA THAT IS DIFFERENT FROM THE GEOGRAPHIC AREA IN WHICH THE SOLICITOR IS ACTUALLY LOCATED;

(l) REPRESENTS OR CAUSES ANOTHER TO REPRESENT THAT THE SOLICITOR HAS A SPONSORSHIP, APPROVAL, STATUS, AFFILIATION, OR CONNECTION WITH AN ORGANIZATION OR PURPOSE THAT THE SOLICITOR DOES NOT ACTUALLY HAVE;

(m) REPRESENTS OR CAUSES ANOTHER TO REPRESENT THAT THE PERSON TO WHOM A SOLICITATION IS MADE IS UNDER AN OBLIGATION TO MAKE A CONTRIBUTION;

(n) REPRESENTS OR CAUSES ANOTHER TO REPRESENT THAT FAILURE TO MAKE A CONTRIBUTION WILL ADVERSELY AFFECT THE PERSON'S CREDIT RATING;

(o) REPRESENTS OR CAUSES ANOTHER TO REPRESENT THAT THE PERSON HAS PREVIOUSLY APPROVED OR AGREED TO MAKE A CONTRIBUTION WHEN IN FACT THE PERSON HAS NOT GIVEN SUCH APPROVAL OR AGREEMENT; OR

(p) REPRESENTS OR CAUSES ANOTHER TO REPRESENT THAT THE PERSON HAS PREVIOUSLY CONTRIBUTED TO THE SAME ORGANIZATION OR FOR THE SAME PURPOSE WHEN IN FACT THE PERSON HAS NOT SO CONTRIBUTED.

SECTION 8. 6-16-111 (3), Colorado Revised Statutes, is amended, and the said 6-16-111 is further amended BY THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to read:

6-16-111. Violations. (1.5) A PERSON COMMITS CHARITABLE FRAUD IF HE OR SHE, IN THE COURSE OF OR IN FURTHERANCE OF A SOLICITATION, MISREPRESENTS TO, MISLEADS, MAKES FALSE STATEMENTS TO, OR USES A NAME OTHER THAN THE SOLICITOR'S LEGAL NAME IN COMMUNICATING WITH A PERSON BEING SOLICITED IN ANY MANNER THAT WOULD LEAD A REASONABLE PERSON TO BELIEVE THAT:

(a) IF THE PERSON BEING SOLICITED MAKES A CONTRIBUTION, HE OR SHE WILL

RECEIVE SPECIAL BENEFITS OR FAVORABLE TREATMENT FROM A POLICE, SHERIFF, PATROL, FIREFIGHTING, OR OTHER LAW ENFORCEMENT AGENCY OR DEPARTMENT OF GOVERNMENT; OR

(b) IF THE PERSON BEING SOLICITED FAILS TO MAKE A CONTRIBUTION, HE OR SHE WILL RECEIVE UNFAVORABLE TREATMENT FROM A POLICE, SHERIFF, PATROL, FIREFIGHTING, OR OTHER LAW ENFORCEMENT AGENCY OR DEPARTMENT OF GOVERNMENT.

(3) Any person who commits charitable fraud in violation of paragraph (a), ~~or~~ (e), OR (h) TO (p) of subsection (1) of this section, OR OF SUBSECTION (1.5) OF THIS SECTION, is guilty of a class 2 misdemeanor and, upon conviction thereof, shall be punished in accordance with section 18-1-106, C.R.S.; except that a person who commits a violation of ~~either~~ ANY ONE OR MORE of said paragraphs ~~which occurs~~ with respect to solicitations involving three separate contributors in any one solicitation campaign is guilty of a class 5 felony, and upon conviction thereof, shall be punished in accordance with section 18-1-105, C.R.S.

(6) (a) IN ADDITION TO ANY OTHER APPLICABLE PENALTY, THE SECRETARY OF STATE MAY DENY, SUSPEND, OR REVOKE THE REGISTRATION OF ANY CHARITABLE ORGANIZATION, PROFESSIONAL FUND-RAISING CONSULTANT, OR PAID SOLICITOR THAT MAKES A FALSE STATEMENT OR OMITTS MATERIAL INFORMATION IN ANY REGISTRATION STATEMENT, ANNUAL REPORT, OR OTHER INFORMATION REQUIRED TO BE FILED BY THIS ARTICLE OR THAT ACTS OR FAILS TO ACT IN SUCH A MANNER AS OTHERWISE TO VIOLATE ANY PROVISION OF THIS ARTICLE. THE SECRETARY OF STATE MAY ALSO DENY, SUSPEND, OR REVOKE THE REGISTRATION OF ANY PERSON WHO DOES NOT MEET THE REQUIREMENTS FOR REGISTRATION SET FORTH IN THIS ARTICLE.

(b) UPON NOTICE FROM THE SECRETARY OF STATE THAT A REGISTRATION HAS BEEN DENIED OR IS SUBJECT TO SUSPENSION OR REVOCATION, THE AGGRIEVED PARTY MAY REQUEST A HEARING. THE REQUEST FOR HEARING MUST BE MADE WITHIN FIVE CALENDAR DAYS AFTER RECEIPT OF NOTICE. PROCEEDINGS FOR ANY SUCH DENIAL, SUSPENSION, OR REVOCATION HEARING SHALL BE GOVERNED BY THE "STATE ADMINISTRATIVE PROCEDURE ACT", ARTICLE 4 OF TITLE 24, C.R.S.; EXCEPT THAT THE SECRETARY OF STATE SHALL PROMULGATE RULES TO PROVIDE FOR EXPEDITED DEADLINES TO GOVERN SUCH PROCEEDINGS AND SHALL BEAR THE BURDEN OF PROOF. THE STATUS QUO CONCERNING THE ABILITY OF THE AGGRIEVED PARTY TO SOLICIT FUNDS SHALL BE MAINTAINED DURING THE PENDENCY OF THE PROCEEDINGS. JUDICIAL REVIEW SHALL BE AVAILABLE PURSUANT TO SECTION 24-4-106, C.R.S.

(c) IN ADDITION TO OTHER REMEDIES AUTHORIZED BY LAW, THE SECRETARY OF STATE MAY BRING A CIVIL ACTION IN THE DISTRICT COURT OF ANY JUDICIAL DISTRICT IN WHICH VENUE IS PROPER FOR THE PURPOSE OF OBTAINING INJUNCTIVE RELIEF AGAINST ANY PERSON WHO VIOLATES, OR THREATENS TO VIOLATE, THE PROVISIONS OF THIS ARTICLE.

(d) THE RIGHTS AND REMEDIES AVAILABLE TO THE SECRETARY OF STATE PURSUANT TO THIS SUBSECTION (6) SHALL NOT AFFECT THE RIGHTS AND REMEDIES AVAILABLE TO ANY OTHER PERSON SEEKING RELIEF FOR VIOLATIONS OF THIS ARTICLE OR ANY OTHER APPLICABLE LAW.

SECTION 9. 6-1-302 (1) (d), Colorado Revised Statutes, is amended to read:

6-1-302. Definitions. As used in this part 3, unless the context otherwise requires:

(1) "Commercial telephone seller" or "seller" means a person who, in the course of such person's business, vocation, or occupation, on the person's own behalf or on behalf of another person, causes or attempts to cause a commercial telephone solicitation to be made; except that "commercial telephone seller" or "seller" does not include the following:

(d) A paid solicitor or charitable organization ~~which~~ THAT is required to and ~~which~~ has complied with the REGISTRATION, notice, and ~~reporting~~ FILING requirements of ~~section~~ SECTIONS 6-16-104.6 AND 6-16-104, RESPECTIVELY, or a person who is excluded from such notice and reporting requirements by section 6-16-103 (7);

SECTION 10. Appropriation. (1) In addition to any other appropriation, there is hereby appropriated, out of any moneys in the department of state cash fund not otherwise appropriated, to the department of state, for the fiscal year beginning July 1, 2001, the sum of two hundred ninety-nine thousand four hundred twenty-three dollars (\$299,423) and 0.9 FTE, or so much thereof as may be necessary, for the implementation of this act.

(2) In addition to any other appropriation, there is hereby appropriated to the department of law, for the fiscal year beginning July 1, 2001, the sum of two thousand seven hundred ninety-one dollars (\$2,791), or so much thereof as may be necessary, for the provision of legal services to the department of state related to the implementation of this act. Said sum shall be from cash funds exempt received from the department of state out of the appropriation made in subsection (1) of this section.

SECTION 11. Effective date - applicability. (1) (a) Sections 10 and 11 of this act shall take effect at 12:01 a.m. on the day following the expiration of the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution; except that, if a referendum petition is filed against this act or against said sections 10 and 11 or any item or part of said sections, then said item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(b) Sections 1 to 9 of this act shall take effect May 9, 2002, unless a referendum petition is filed during the ninety-day period after final adjournment of the general assembly that is allowed for submitting a referendum petition pursuant to article V, section 1 (3) of the state constitution. If such a referendum petition is filed against this act or against said sections or any item or part of said sections, then said item, section, or part, if approved by the people, shall take effect on the date of the official declaration of the vote thereon by proclamation of the governor.

(2) The provisions of this act shall apply to acts and offenses committed on or after the applicable effective date of this act.

Approved: June 5, 2001