

CHAPTER 290

CONSUMER AND COMMERCIAL TRANSACTIONS

SENATE BILL 05-205

BY SENATOR(S) Shaffer, Hanna, and Williams;
also REPRESENTATIVE(S) Sullivan, Berens, Coleman, Stengel, and Todd.

AN ACT

CONCERNING MODIFICATIONS TO THE "COLORADO CHARITABLE SOLICITATIONS ACT", AND MAKING
AN APPROPRIATION THEREFOR.

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

SECTION 1. 6-16-103 (7) (b) and (9.3), Colorado Revised Statutes, are amended to read:

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

(7) "Paid solicitor" 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":

(b) A lawyer, investment counselor, or banker who ~~in his professional capacity,~~ RENDERS PROFESSIONAL SERVICES TO A CHARITABLE ORGANIZATION OR advises a person to make a charitable contribution DURING THE COURSE OF RENDERING SUCH PROFESSIONAL SERVICES OR ADVICE TO THE CHARITABLE ORGANIZATION OR PERSON;

(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 RENDERS

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 SERVICES TO A CHARITABLE ORGANIZATION OR advises a person to make a CHARITABLE contribution DURING THE COURSE OF RENDERING PROFESSIONAL SERVICES TO THE PERSON shall be deemed, as a result of such PROFESSIONAL SERVICES OR advice, to be a "professional fundraising consultant".

SECTION 2. 6-16-104 (2) (f), (3), and (6) (c), Colorado Revised Statutes, are amended, and the said 6-16-104 (2) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

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

(2) The registration statement shall be signed and sworn to under oath by an officer of the charitable organization, which may include its chief fiscal officer, and shall contain the following information:

(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. If, at the time of the initial registration, the charitable organization does not have the required financial report or Form 990 for the most recent fiscal year, the charitable organization shall submit a financial report or Form 990 for the most recent fiscal year in which such information is available. An organization that was first legally established within the past year and thus does not have financial information or a Form 990 for its most recent fiscal year shall provide to the secretary of state a financial report based on good faith estimates for its current fiscal year on a form prescribed by the secretary of state. ANY ORGANIZATION THAT FILES A GOOD FAITH ESTIMATE FOR ITS FIRST FISCAL YEAR SHALL AMEND ITS INITIAL REGISTRATION STATEMENT TO REPORT ACTUAL FINANCIAL INFORMATION NO LATER THAN THE FIFTEENTH DAY OF THE FIFTH MONTH AFTER THE CLOSE OF THE ORGANIZATION'S FIRST FISCAL YEAR.

(g) THE NAMES AND ADDRESSES OF ANY PAID SOLICITORS, PROFESSIONAL FUNDRAISING CONSULTANTS, AND COMMERCIAL COVENTURERS WHO ARE ACTING OR HAVE AGREED TO ACT ON BEHALF OF THE CHARITABLE ORGANIZATION. IF THE PAID SOLICITOR, PROFESSIONAL FUNDRAISING CONSULTANT, OR COMMERCIAL COVENTURER IS A PARTNERSHIP, CORPORATION, LIMITED LIABILITY COMPANY, OR OTHER LEGAL ENTITY, THE CHARITABLE ORGANIZATION SHALL LIST ONLY THE NAME AND ADDRESS OF THE LEGAL ENTITY.

(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. AS SOON AS PRACTICABLE, THE SECRETARY OF STATE SHALL TAKE STEPS TO COOPERATE IN A JOINT STATE AND FEDERAL ELECTRONIC FILING PROJECT INVOLVING STATE CHARITY OFFICES AND THE INTERNAL REVENUE SERVICE TO ENABLE AND PROMOTE ELECTRONIC FILING OF UNIFORM MULTISTATE REGISTRATION STATEMENTS AND FEDERAL ANNUAL INFORMATION RETURNS.

(6) The following shall not be required to file a registration statement:

(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. THE EXEMPTION AUTHORIZED IN THIS PARAGRAPH (c) SHALL NOT APPLY TO A CHARITABLE ORGANIZATION THAT HAS CONTRACTED WITH A PAID SOLICITOR TO SOLICIT CONTRIBUTIONS IN THIS STATE FOR THE ORGANIZATION.

SECTION 3. 6-16-104.3 (4) (c), Colorado Revised Statutes, is amended, and the said 6-16-104.3 (4) is further amended BY THE ADDITION OF A NEW PARAGRAPH, to read:

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

(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.5) 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) IF THE APPLICANT IS NOT AN INDIVIDUAL, the names and addresses of the owners, officers, and executive personnel of the applicant;

SECTION 4. The introductory portion to 6-16-104.6 (2), Colorado Revised Statutes, is amended to read:

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

(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 an authorized official of the charitable organization or sponsor, ~~one of whom~~ WHO 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:

SECTION 5. 6-16-110.5 (1), Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW PARAGRAPH to read:

6-16-110.5. Secretary of state - dissemination of information - cooperation with other agencies. (1) The secretary of state shall take steps to:

(c) PARTICIPATE IN A NATIONAL ONLINE CHARITY INFORMATION SYSTEM AS SOON AS A SYSTEM IS ESTABLISHED, IF THE SECRETARY DETERMINES THAT PARTICIPATION WILL FURTHER ADVANCE THE PURPOSES OF THIS SUBSECTION (1) AND SUBSECTION (2) OF THIS SECTION.

SECTION 6. Appropriation. In addition to any other appropriation, there is hereby appropriated, out of any moneys in the department of state cash fund created

in section 24-21-104 (3) (b), Colorado Revised Statutes, not otherwise appropriated, to the department of state, for the fiscal year beginning July 1, 2005, the sum of one hundred four thousand three hundred seventeen dollars (\$104,317) and 0.3 FTE, or so much thereof as may be necessary, for the implementation of this act.

SECTION 7. Safety clause. The general assembly hereby finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Approved: June 3, 2005