

## CHAPTER 112

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**ELECTIONS**

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**HOUSE BILL 08-1041**

BY REPRESENTATIVE(S) Carroll M., Madden, Carroll T., Casso, and Levy;  
also SENATOR(S) Gordon, and Tupa.

**AN ACT**

**CONCERNING THE ENFORCEMENT OF LEGAL REQUIREMENTS PERTAINING TO CAMPAIGN FINANCE.**

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

**SECTION 1.** 1-45-111.5 (2), Colorado Revised Statutes, is amended, and the said 1-45-111.5 is further amended BY THE ADDITION OF A NEW SUBSECTION, to read:

**1-45-111.5. Duties of the secretary of state - enforcement - sanctions.**

(1.5) (a) ANY PERSON WHO BELIEVES THAT A VIOLATION OF EITHER THE SECRETARY OF STATE RULES CONCERNING CAMPAIGN AND POLITICAL FINANCE OR THIS ARTICLE HAS OCCURRED MAY FILE A WRITTEN COMPLAINT WITH THE SECRETARY OF STATE NOT LATER THAN ONE HUNDRED EIGHTY DAYS AFTER THE DATE OF THE OCCURRENCE OF THE ALLEGED VIOLATION. THE COMPLAINT SHALL BE SUBJECT TO ALL APPLICABLE PROCEDURES SPECIFIED IN SECTION 9 (2) OF ARTICLE XXVIII OF THE STATE CONSTITUTION.

(b) ANY PERSON WHO COMMITS A VIOLATION OF EITHER THE SECRETARY OF STATE RULES CONCERNING CAMPAIGN AND POLITICAL FINANCE OR THIS ARTICLE THAT IS NOT SPECIFICALLY LISTED IN SECTION 9 (2) (a) OF ARTICLE XXVIII OF THE STATE CONSTITUTION SHALL BE SUBJECT TO ANY OF THE SANCTIONS SPECIFIED IN SECTION 10 OF ARTICLE XXVIII OF THE STATE CONSTITUTION OR IN THIS SECTION.

(2) A party in any action brought to enforce the provisions of article XXVIII of the state constitution or of this article shall be entitled to the recovery of the party's reasonable attorney fees and costs from any attorney or party who has brought or defended the action, either in whole or in part, upon a determination by the office of administrative courts that the action, or any part thereof, lacked substantial justification or that the action, or any part thereof, was interposed for delay or

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

harassment or if it finds that an attorney or party unnecessarily expanded the proceeding by other improper conduct, including, but not limited to, abuses of discovery procedures available under the Colorado rules of civil procedure. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SUBSECTION (2), NO ATTORNEY FEES MAY BE AWARDED UNDER THIS SUBSECTION (2) UNLESS THE COURT OR ADMINISTRATIVE LAW JUDGE, AS APPLICABLE, HAS FIRST CONSIDERED THE PROVISIONS OF SECTION 13-17-102 (5) AND (6), C.R.S. For purposes of this subsection (2), "lacked substantial justification" means substantially frivolous, substantially groundless, or substantially vexatious.

**SECTION 2. Repeal.** 1-45-112 (1) (f), Colorado Revised Statutes, is repealed as follows:

**1-45-112. Duties of municipal clerk and county clerk and recorder.** (1) The municipal clerk and county clerk and recorder shall:

(f) ~~Report apparent violations of law to appropriate law enforcement authorities.~~

**SECTION 3.** 1-45-117 (4), Colorado Revised Statutes, is amended to read:

**1-45-117. State and political subdivisions - limitations on contributions.**

(4) Any violation of this section shall be subject to the ~~sanctions authorized in section 1-45-113~~ PROVISIONS OF SECTIONS 9 (2) AND 10 (1) OF ARTICLE XXVIII OF THE STATE CONSTITUTION or any appropriate order or relief, including AN ORDER DIRECTING THE PERSON MAKING A CONTRIBUTION OR EXPENDITURE IN VIOLATION OF THIS SECTION TO REIMBURSE THE FUND OF THE STATE OR POLITICAL SUBDIVISION, AS APPLICABLE, FROM WHICH SUCH MONEYS WERE DIVERTED FOR THE AMOUNT OF THE CONTRIBUTION OR EXPENDITURE, injunctive relief, or a restraining order to enjoin the continuance of the violation.

**SECTION 4. Applicability.** This act shall apply to the portion of any election cycle or for the portion of the calendar year remaining after the effective date of this act and for any election cycle or calendar year commencing after said date, whichever is applicable.

**SECTION 5. 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: April 10, 2008