

## CHAPTER 118

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**CONSUMER AND COMMERCIAL TRANSACTIONS**


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HOUSE BILL 14-1206

BY REPRESENTATIVE(S) Conti, Kraft-Tharp, Melton, Pabon;  
also SENATOR(S) Ulibarri, Aguilar.

**AN ACT**

**CONCERNING MODIFICATIONS TO THE "COLORADO CHARITABLE SOLICITATIONS ACT", AND, IN CONNECTION THEREWITH, PROHIBITING CERTAIN CHARITABLE SOLICITATION PRACTICES, MODIFYING THE SECRETARY OF STATE'S FINING AUTHORITY, ADJUSTING REGISTRATION STATEMENT REQUIREMENTS, AND SPECIFYING REQUIREMENTS FOR APPOINTING REGISTERED AGENTS.**

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

**SECTION 1.** In Colorado Revised Statutes, 6-16-104, **amend** (2) (c), (9), and (10) as follows:

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

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

(c) The names and ~~addresses~~ <sup>TITLES</sup> of the officers, directors, trustees, and executive personnel of the charitable organization;

(9) No charitable organization that is required to register under this ~~chapter~~ <sup>ARTICLE</sup> shall:

(a) 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; OR

(b) AID, ABET, OR OTHERWISE PERMIT ANY PAID SOLICITOR TO SOLICIT CONTRIBUTIONS ON ITS BEHALF IN THIS STATE UNLESS THE PAID SOLICITOR SOLICITING CONTRIBUTIONS HAS COMPLIED WITH THE REQUIREMENTS OF THIS

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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.*

## ARTICLE.

(10) All information filed pursuant to this section, except for residential addresses and telephone numbers of individuals, ACCOUNT NUMBERS AT BANKS OR OTHER FINANCIAL INSTITUTIONS, and schedules of contributors listed on the federal form 990 or its equivalent, ~~shall be considered~~ IS A public records RECORD for purposes of the public records law, part 2 of article 72 of title 24, C.R.S.

**SECTION 2.** In Colorado Revised Statutes, 6-16-104.3, **amend** (11) as follows:

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

(11) ~~All~~ Information filed pursuant to this section, except for residential addresses and telephone numbers of individuals ~~shall be considered~~ AND ACCOUNT NUMBERS AT BANKS OR OTHER FINANCIAL INSTITUTIONS, IS A public records RECORD for purposes of the public records law, part 2 of article 72 of title 24, C.R.S.

**SECTION 3.** In Colorado Revised Statutes, 6-16-104.6, **amend** (11) as follows:

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

(11) ~~All~~ Information filed pursuant to this section, except for residential addresses and telephone numbers of individuals ~~shall be considered~~ AND ACCOUNT NUMBERS AT BANKS OR OTHER FINANCIAL INSTITUTIONS, IS A public records RECORD for purposes of the public records law, part 2 of article 72 of title 24, C.R.S.

**SECTION 4.** In Colorado Revised Statutes, 6-16-105, **amend** (1) introductory portion and (1) (h) as follows:

**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~~ MUST 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:

(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~~ THE web site address for obtaining such documents from the secretary of state.

**SECTION 5.** In Colorado Revised Statutes, 6-16-110.5, **amend** (3) introductory portion and (3) (e) as follows:

**6-16-110.5. Secretary of state - dissemination of information - cooperation with other agencies - rules.** (3) The secretary of state ~~shall have the authority to~~ MAY promulgate rules as needed for the effective implementation of this section ARTICLE, including: ~~but not limited to:~~

(e) Setting fines for noncompliance with this article or rules promulgated pursuant to this article. ~~The fine for soliciting while unregistered shall not exceed three hundred dollars per year for charities or one thousand dollars per year for paid solicitors.~~

**SECTION 6.** In Colorado Revised Statutes, **amend 6-16-112** as follows:

**6-16-112. Registered agents - service of process.** (1) ANY PERSON REQUIRED UNDER THIS ARTICLE TO REGISTER WITH THE SECRETARY OF STATE SHALL APPOINT AND CONTINUOUSLY MAINTAIN A REGISTERED AGENT WHO SATISFIES THE REQUIREMENTS OF SECTION 7-90-701 (1), C.R.S. A REGISTRATION DOCUMENT FILED IN ACCORDANCE WITH THIS ARTICLE THAT CONTAINS THE NAME AND ADDRESS OF THE PERSON'S REGISTERED AGENT MUST ALSO INCLUDE A STATEMENT BY THE PERSON FILING THE DOCUMENT THAT THE REGISTERED AGENT CONSENTS TO THE APPOINTMENT. THE SECRETARY OF STATE SHALL SEND ANY NOTICES REQUIRED UNDER THIS ARTICLE TO THE REGISTERED AGENT OF THE REGISTERED PERSON.

(2) A REGISTERED AGENT OF A PERSON REGISTERED UNDER THIS ARTICLE IS:

(a) AUTHORIZED TO RECEIVE SERVICE OF ANY PROCESS, NOTICE, OR DEMAND REQUIRED OR PERMITTED BY LAW TO BE SERVED ON THE PERSON; AND

(b) THE PERSON TO WHOM THE SECRETARY OF STATE MAY DELIVER ANY FORM, NOTICE, OR OTHER DOCUMENT UNDER THIS ARTICLE PERTAINING TO THE PERSON REGISTERED UNDER THIS ARTICLE.

(3) Any foreign corporation performing ~~any of the acts~~ AN ACT prohibited under this article through ~~any salesman~~ A SALESPERSON or agent is subject to service of process either upon the registered agent specified by ~~said~~ THE corporation or upon the corporation itself if ~~no agent is maintained pursuant to part 7 of article 90 of title 7, C.R.S.~~ THE CORPORATION FAILS TO MAINTAIN A REGISTERED AGENT AS REQUIRED BY THIS ARTICLE. Service of process upon any individual outside this state based upon any action arising out of matters prohibited by this article ~~shall~~ MUST BE EFFECTED pursuant to section 13-1-125, C.R.S.

**SECTION 7.** In Colorado Revised Statutes, **amend 6-16-114** as follows:

**6-16-114. Fines - required notification - rules.** (1) (a) Any charitable organization, professional fundraising consultant, or paid solicitor who, after sufficient notification by the secretary of state, fails to properly register, renew a registration, ~~file a solicitation notice~~, or file a financial report of a solicitation campaign under this article by the end of the seventh day following the issuance of the final notice, is liable for a fine or ~~late filing fee~~ in an amount to be established by rule promulgated by the secretary of state.

(b) THE SECRETARY OF STATE PROVIDES SUFFICIENT NOTIFICATION UNDER THIS SECTION IF THE SECRETARY GIVES AT LEAST TWO NOTICES TO THE ORGANIZATION AND REGISTERED AGENT OF THE CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR.

(c) The ~~late fee~~ FINE for filing a registration renewal ~~solicitation notice~~, or solicitation campaign financial report late ~~shall~~ MUST NOT EXCEED ONE HUNDRED DOLLARS PER YEAR FOR CHARITIES OR TWO HUNDRED DOLLARS PER YEAR FOR PAID SOLICITORS. ~~Sufficient notification consists of at least two notices given to the organization and registered agent of the charitable organization, professional fund-raising consultant, or paid solicitor.~~

(d) THE FINE FOR SOLICITING BEFORE REGISTERING MUST NOT EXCEED THREE HUNDRED DOLLARS PER YEAR FOR A CHARITABLE ORGANIZATION OR ONE THOUSAND DOLLARS PER YEAR FOR PAID SOLICITORS.

(2) IF A PAID SOLICITOR FAILS TO FILE A SOLICITATION NOTICE AT LEAST FIFTEEN DAYS BEFORE COMMENCING A SOLICITATION CAMPAIGN, THE SECRETARY OF STATE SHALL ASSESS AGAINST THE PAID SOLICITOR, AT THE TIME THE PAID SOLICITOR FILES THE SOLICITATION NOTICE, A FINE IN AN AMOUNT ESTABLISHED IN RULES PROMULGATED BY THE SECRETARY OF STATE.

(3) ~~The A fine or late filing fee~~ IMPOSED UNDER THIS SECTION is in addition to any other filing fee provided by this article.

**SECTION 8. Act subject to petition - effective date.** 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 6, 2014, if adjournment sine die is on May 7, 2014); 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 2014 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

Approved: April 11, 2014