



## **NOTICE OF PROPOSED RULEMAKING**

**Office of the Secretary of State**  
**Rules Concerning the Charitable Solicitations Program**  
**8 CCR 1505-09**

**December 31, 2008**

Pursuant to the requirements of §24-4-103(3)(a), C.R.S. (2008), notice of proposed rule-making is hereby given by the Secretary of State. A public rule-making hearing will be held on **February 3, 2009 from 2:30 p.m. until 5:00 p.m.** in the Blue Spruce Conference Room on the second floor of the Office of the Secretary of State at 1700 Broadway, Denver, Colorado 80290. All interested persons will be afforded an opportunity to be heard on the subject of the proposed new rules regarding the Colorado Charitable Solicitations Act, administered by the Office of the Secretary of State, Division of Licensing, 8 CCR 1505-09

### **Subject of the Proposed Rulemaking**

The subject of the rule-making hearing is the proposed rules as may be necessary or appropriate for the administration and implementation of the Colorado Charitable Solicitations Act ("CCSA"). The proposed rules to be considered concern: the acceptance of electronic signatures, expedited hearing deadlines, the extension of filing deadlines, criteria for when charitable organizations, paid solicitors, and professional fundraising consultants will be subject to fines and suspensions, and substantive and procedural questions that have arisen in the course of administering the Charitable Solicitations Act.

### **Authority for Proposed Rulemaking**

Amendments to rules regarding the Charitable Solicitations Program, Office of the Secretary of State, Division of Licensing, 8 CCR 1505-09, are proposed pursuant to the Colorado Administrative Procedure Act, §24-4-103, C.R.S., "Rulemaking procedure," and pursuant to the specific rule-making authority granted to the Secretary of State by the Colorado Charitable Solicitations Act at §6-16-110.5(3) and 6-16-111(6)(b), C.R.S.

Copies of the initial draft of the proposed rules may be obtained from the office of the Secretary of State at 1700 Broadway, Suite 300, Denver, Colorado, 80290, or by calling (303) 894-2200

extension 6487. The proposed rules are also posted on the Secretary of State website at [www.sos.state.co.us](http://www.sos.state.co.us).

A final copy of the proposed rules for consideration at the public rule-making hearing will be posted on the Secretary of State website and made available to the public no later than January 29, 2009 in accordance with §24-4-103(4)(a), C.R.S. (2008), which states that “[a]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing ... shall be made available to any person at least five days prior to said hearing.”

The rule-making hearing on February 3, 2009 will be held in accordance with §24-4-103, C.R.S., (2008). Written and oral data, comments, and arguments will be received from all interested parties. Written submissions must be filed at or before the commencement of the hearing on February 3, 2009, at 2:30 p.m. in order to be considered. Oral testimony may be limited in order to allow the proceedings to go forward with reasonable promptness and efficiency. The hearing will be audio recorded and broadcast over the Internet. The broadcast may be accessed through the Secretary of State website at [www.sos.state.co.us](http://www.sos.state.co.us) on the “Information Center” page under “Broadcast and Recorded Meetings.” For additional information, please contact Chris Cash, Charitable Solicitations Program, Licensing Division at [chris.cash@sos.state.co.us](mailto:chris.cash@sos.state.co.us) or (303) 894-2200 extension 6407.

Dated this 31st Day of December, 2008



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William A. Hobbs  
Deputy Secretary of State

For

Mike Coffman  
Colorado Secretary of State

**STATE OF COLORADO**

**Department of State**

1700 Broadway  
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**Mike Coffman**

Secretary of State

**William A. Hobbs**

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**Proposed Statement of Basis, Purpose and Specific Statutory Authority**

**Office of the Secretary of State**

**Rules for the Administration of the Colorado Charitable Solicitations Act**

**December 31, 2008**

**1. Basis and Purpose**

This statement pertains to the proposed rules to replace existing Rules 1 and 2 of the Colorado Secretary of State's "Rules Concerning the Colorado Charitable Solicitations Act" (8 CCR 1505-9). The proposed rules are necessary to provide for the acceptance of electronic signatures, expedited hearing deadlines, and for the extension of filing deadlines. In addition, new rules are necessary to implement the provisions of House Bill 08-1109, which authorized the Secretary of State to set and levy fines for noncompliance with Title 6, Article 16, and to address recommendations included in the Oversight of Charitable Solicitations Performance Audit of May, 2008. The performance audit identified ways the Department could improve its efforts to ensure that all applicable charities register with the Department and ensure that charities, paid solicitors, and professional fundraising consultants file required reports on time. This included developing criteria for when charitable organizations, paid solicitors, and professional fundraising consultants will be subject to fines and suspensions and ensuring that delinquency and suspension notices are sent out in a timely manner. Finally, several new rules are proposed in order to answer substantive or procedural questions that have arisen in the course of administering the Charitable Solicitations Act.

The Secretary of State therefore finds that the permanent adoption of the new Rules 1 through 15 of the Colorado Secretary of State's "Rules for the Administration of the Colorado Charitable Solicitations Act" is necessary in order to ensure the uniform and proper administration of the program, define terms, establish electronic signatures, establish expedited hearing deadlines, provide a framework for the issuance and verification of registration numbers, define a process for extending a filing deadline, describe the number and timing of notices the Secretary of State will send registrants, describe a process by which fines will be levied and can be appealed, provide greater certainty regarding the application of the registration requirement to internet solicitations, and to clarify how the reporting requirements of the statute will apply to solicitation campaigns conducted by a subcontractor of a paid solicitor.

## **2. Statutory Authority**

These amendments and revisions to the Colorado Secretary of State “Rules Concerning the Administration of the Charitable Solicitations Act” Office of the Secretary of State, Division of Licensing, 8 CCR 1505-9, are adopted pursuant to the following statutory provisions:

1. Rulemaking provisions of the Colorado Administrative Procedure Act, §24-4-103, C.R.S.
2. Section 6-16-110.5(3), C.R.S. (2008), which authorizes the Secretary of State to adopt any rules deemed necessary for the effective implementation of the “Colorado Charitable Solicitations Act.”
3. Section 6-16-111(6)(b), C.R.S. (2008), which directs the Secretary of State to promulgate rules to provide for expedited deadlines to govern hearings.

# COLORADO SECRETARY OF STATE

## 8 CCR 1505-9

### RULES FOR THE ADMINISTRATION OF THE COLORADO CHARITABLE SOLICITATIONS ACT

#### Preliminary Draft of Proposed Rules

December 31, 2008

*Disclaimer: This draft is not yet final. The proposed changes to be considered at the public rulemaking hearing may be different than the proposed changes in this draft. This draft is submitted to the Department of Regulatory Agencies for the purpose of complying with section 24-4-103(2.5), C.R.S., which requires that a draft be submitted to the Department at the time that a notice of proposed rulemaking is filed with the Secretary of State.*

*A final copy of the proposed rule changes will be available to the public no later than January 29, 2009, and a copy will be posted on the Department of State's web site, in compliance with the requirement of section 24-4-103(4)(a), C.R.S., that "[a]ny proposed rule or revised proposed rule by an agency which is to be considered at the public hearing . . . shall be made available to any person at least five days prior to said hearing."*

*Proposed additions to the current rules are reflected in SMALL CAPS or underlined. Proposed deletions from current rules are shown in ~~stricken type~~. Annotations may be included.*

1 [Existing Rule 1 would be amended and relocated as New Rule 2]

2 **Rule 1**

3 **Electronic Filing**

4 ~~(1) All filings with the Office of the Secretary of State that are required or permitted by title 6,~~  
5 ~~article 16, C.R.S., the "Colorado Charitable Solicitations Act," shall be made electronically,~~  
6 ~~through the use of the Secretary of State's Internet charitable solicitation registration and~~  
7 ~~reporting system, and shall be in the format prescribed by the Secretary of State. No such filing~~  
8 ~~attempted on paper shall be deemed valid, nor shall any paper filing tendered in connection with~~  
9 ~~the above cited Act be accepted by the Secretary of State.~~

10 ~~(2) The Secretary of State shall issue a unique user identification number and password to any~~  
11 ~~charitable organization, paid solicitor, or professional fundraising consultant who requests to file~~  
12 ~~pursuant to title 6, article 16, C.R.S., provided that such requester first furnishes any information,~~  
13 ~~agreement or affirmation that the Secretary of State requires in order to establish and maintain an~~  
14 ~~accurate, accessible, and secure electronic charitable solicitations filing and information system.~~  
15 ~~Submission of a filing with the identification number and password described in this Rule 1 shall~~

1 constitute the filer's official signature, in accord with C.R.S. 24-71.1-106, affixed under penalty  
2 of perjury, as provided by law.

3 [Existing Rule 2 would be amended and relocated as New Rule 3]

4 **Rule 2**

5 **Expedited Hearing Deadlines**

6 ~~(1) Upon receipt of a request for hearing pursuant to C.R.S. 6-16-111 (6) (b), the Secretary of~~  
7 ~~State shall set and give notice of the requested hearing. Such notice shall be served within five~~  
8 ~~business days of the Secretary of State's receipt of the hearing request, and shall set the hearing~~  
9 ~~on a date no sooner than ten and no later than twenty calendar days after the date of service of~~  
10 ~~the notice. For the purposes of this Rule 2, any notice by mail shall be deemed served on the date~~  
11 ~~of its postmark.~~

12 ~~(2) Proceedings conducted pursuant to C.R.S. 6-15-111 (6) and this Rule 2 may, in the~~  
13 ~~discretion of the Secretary of State, be continued for good cause shown by any party to such~~  
14 ~~proceedings. Any continuance shall be as brief as practicable, and no continuance shall be for a~~  
15 ~~period longer than ten days.~~

16 ~~(3) The Secretary of State shall conclude all expedited hearings with reasonable dispatch, and~~  
17 ~~shall take final agency action, including, but without limitation, issuance of all such~~  
18 ~~administrative findings, decisions, and orders as the Secretary considers appropriate, within~~  
19 ~~twenty calendar days from the date on which any such expedited proceeding is concluded.~~

20 New Rule 1 would be adopted as follows:

21 **RULE 1. DEFINITIONS**

22 1.1 **ACCOUNTING PERIOD:** AN ANNUAL ACCOUNTING PERIOD FOR KEEPING RECORDS AND  
23 REPORTING INCOME AND EXPENSES. AN ACCOUNTING PERIOD DOES NOT INCLUDE A SHORT  
24 TAX YEAR. ORGANIZATIONS SHALL USE THE SAME ACCOUNTING PERIODS TO FILE  
25 REGISTRATION DOCUMENTS WITH THE SECRETARY OF STATE AS THEY USE TO FILE THE  
26 FEDERAL FORM 990 WITH THE INTERNAL REVENUE SERVICE (IRS) AND AS THEY USE TO  
27 MAINTAIN THEIR FINANCIAL RECORDS INTERNALLY.

28 1.2 **AGENT:** ONE OR MORE PERSONS WHO TRANSACT SOME BUSINESS OR MANAGE SOME AFFAIR  
29 FOR ANOTHER, BY THE AUTHORITY AND ON ACCOUNT OF THE PRINCIPAL, AND WHO  
30 RENDERS AN ACCOUNT OF SUCH BUSINESS OR AFFAIR TO THE PRINCIPAL. THE TERM  
31 "AGENT" SHALL INCLUDE THE TERM "SUBCONTRACTOR"

32 1.3 **AUTHORIZED OFFICER:** THE OFFICER DESIGNATED BY THE FILING ENTITY TO  
33 ELECTRONICALLY SIGN ANY FORMS ON BEHALF OF THE ORGANIZATION PURSUANT TO THE  
34 CCSA. THIS PERSON SHALL BE AN OFFICER OF A NONPROFIT CORPORATION, A TRUSTEE OF  
35 A CHARITABLE TRUST, OR A SENIOR MANAGER MEMBER OF ANY OTHER TYPE OF ENTITY  
36 SUBJECT TO THE FILING REQUIREMENTS OF THE CCSA.

- 1 1.4 **CALENDAR YEAR:** THE TWELVE CONSECUTIVE MONTHS BEGINNING JANUARY 1 AND  
2 ENDING DECEMBER 31. IF AN ORGANIZATION ADOPTS THE CALENDAR YEAR, IT MUST  
3 MAINTAIN ITS BOOKS AND RECORDS AND REPORT ITS INCOME AND EXPENSES FROM  
4 JANUARY 1 THROUGH DECEMBER 31 OF EACH YEAR.
- 5 1.5 **CONTRACT:** AS USED IN SECTION 6-16-104.6(2), C.R.S., MEANS A SIGNED COPY OF ANY  
6 CURRENT CONTRACTS WITH CHARITABLE ORGANIZATIONS AND ANY CURRENT CONTRACTS  
7 WITH ANY AGENTS OR SUBCONTRACTORS HIRED TO FULFILL THE TERMS OF THE CONTRACTS  
8 WITH THOSE CHARITABLE ORGANIZATIONS.
- 9 1.6 **DIRECTLY EMPLOYED:** AS USED IN SECTION 6-16-103(7)(D), C.R.S., MEANS THE  
10 CHARITABLE ORGANIZATION CONTROLS OR DIRECTS THE MEANS AND METHODS OF  
11 ACCOMPLISHING THE RESULT OF THE INDIVIDUAL'S WORK, REGARDLESS OF WHETHER OR  
12 NOT THE INDIVIDUAL IS EMPLOYED FULL-TIME OR PART-TIME, IS PAID A SALARY OR ON  
13 COMMISSION, OR IS CALLED AN EMPLOYEE OR AN AGENT OR INDEPENDENT CONTRACTOR.
- 14 1.7 **FISCAL YEAR:** THE TWELVE CONSECUTIVE MONTHS ENDING ON THE LAST DAY OF ANY  
15 MONTH, EXCEPT DECEMBER. TITLE 6, ARTICLE 16, C.R.S., GENERALLY USES THE TERM  
16 *FISCAL YEAR* TO DESCRIBE ANY ACCOUNTING PERIOD, BUT THESE RULES MAY DISTINGUISH  
17 BETWEEN A FISCAL YEAR, CALENDAR YEAR, AND TAX YEAR.
- 18 1.8 **FORM OF THE APPLICANT'S BUSINESS:** THE LEGAL STATUS OF THE ENTITY, SUCH AS:  
19 DOMESTIC NONPROFIT CORPORATION, UNINCORPORATED ASSOCIATION, CORPORATION,  
20 SOLE PROPRIETOR, ETC.
- 21 1.9 **GROSS REVENUE:** THE TOTAL AMOUNT THE ORGANIZATION RECEIVES FROM ALL SOURCES,  
22 REGARDLESS OF GEOGRAPHIC LOCATION, DURING ITS ACCOUNTING PERIOD, WITHOUT  
23 SUBTRACTING ANY COSTS OR EXPENSES. GROSS REVENUE DOES NOT INCLUDE RECEIPT OF  
24 FUNDS MERELY AS AN AGENT FOR ANOTHER, WHERE THE ORGANIZATION COLLECTS THE  
25 FUNDS AND DELIVERS THE FUNDS TO THE PRINCIPAL WITHOUT ASSERTING ANY RIGHT TO  
26 USE THEM OR OTHERWISE DERIVING A BENEFIT FROM THEM.
- 27 1.10 **NAME OR NAMES UNDER WHICH CHARITABLE ORGANIZATION INTENDS TO SOLICIT**  
28 **CONTRIBUTIONS:** THIS INCLUDES ANY "DOING BUSINESS AS," "ALSO KNOWN AS," OR  
29 TRADE NAMES. THIS TERM INCLUDES THE NAME OF ANY DONOR ADVISED FUND THAT  
30 SOLICITS CONTRIBUTIONS FROM THE PUBLIC USING ITS OWN NAME, UNLESS IN ALL WRITTEN  
31 AND ORAL SOLICITATIONS, IT CLEARLY IDENTIFIES ITSELF AS A "DONOR ADVISED FUND" OF  
32 A SPECIFIED CHARITABLE ORGANIZATION THAT IS EITHER REGISTERED WITH THE  
33 SECRETARY OF STATE OR EXEMPT UNDER SECTION 6-16-104(6)(A)-(C), C.R.S.
- 34 1.11 **NEWLY-FORMED CHARITABLE ORGANIZATION:** AN ORGANIZATION THAT HAS NOT  
35 COMPLETED ITS FIRST TAX YEAR OR HAS NOT REACHED THE 15<sup>TH</sup> DAY OF THE FIFTH MONTH  
36 SINCE THE CLOSE OF ITS FIRST TAX YEAR. IN MOST CASES, NEWLY-FORMED CHARITABLE  
37 ORGANIZATIONS WILL FILE AN INITIAL REGISTRATION STATEMENT CONSISTING OF  
38 ESTIMATED FINANCIAL INFORMATION THAT MUST BE REPLACED BY ACTUAL FINANCIAL  
39 INFORMATION ON OR BEFORE THE 15<sup>TH</sup> DAY OF THE FIFTH MONTH AFTER THE CLOSE OF ITS  
40 FIRST TAX YEAR.

- 1 1.12 **PERSON RESPONSIBLE FOR DIRECTING AND SUPERVISING THE CONDUCT OF THE**  
2 **CAMPAIGN:** PURSUANT TO SECTION 6-16-104.6(7)(B), C.R.S., THIS TERM INCLUDES ANY  
3 AGENTS OR SUBCONTRACTORS OF THE PAID SOLICITOR.
- 4 1.13 **PRINCIPAL PLACE OF BUSINESS:** THE BONA FIDE PHYSICAL STREET ADDRESS OF THE  
5 ORGANIZATION OR SOLE PROPRIETOR. THIS DOES NOT INCLUDE A POST OFFICE BOX OR  
6 PRIVATE MAILBOX.
- 7 1.14 **SHORT TAX YEAR:** A TAX YEAR OF LESS THAN 12 MONTHS. A SHORT-PERIOD FINANCIAL  
8 STATEMENT SHALL BE REQUIRED IF THE ORGANIZATION (A) HAS NOT BEEN IN EXISTENCE  
9 FOR AN ENTIRE TAX YEAR, OR (B) CHANGES ITS ACCOUNTING PERIOD. THE ORGANIZATION  
10 MAY HAVE A SHORT TAX YEAR IN ITS FIRST YEAR OF EXISTENCE, IN ANY YEAR WHEN IT  
11 CHANGES ITS ANNUAL ACCOUNTING PERIOD (E.G., FROM DECEMBER 31 YEAR-END TO A  
12 JUNE 30 YEAR-END), OR IN ITS LAST YEAR OF EXISTENCE.
- 13 1.15 **SERVICE PROVIDER:** A BUSINESS OR INDIVIDUAL THAT PROVIDES THE SERVICE OF  
14 REGISTERING A CHARITY, PAID SOLICITOR, PROFESSIONAL FUNDRAISING CONSULTANT FOR  
15 CHARITABLE SOLICITATIONS WITH THE SECRETARY OF STATE, BUT IS NEITHER A BONA FIDE  
16 VOLUNTEER NOR A DIRECTOR, OFFICER, OR COMPENSATED EMPLOYEE AS DESCRIBED IN  
17 SECTION 6-16-103(7)(c), C.R.S.
- 18 1.16 **SOLE RESPONSIBILITY:** WITH RESPECT TO SECTION 6-16-103(7)(A), C.R.S., A PERSON  
19 WHOSE "SOLE RESPONSIBILITY IS TO PRINT OR MAIL FUNDRAISING LITERATURE" IS  
20 INTENDED TO EXEMPT ONLY EMPLOYEES OF PROFESSIONAL PRINTING AND COPYING  
21 BUSINESSES FROM THE DEFINITION OF PAID SOLICITOR.
- 22 1.17 **SUBCONTRACTOR:** MEANS ANY AGENT (BUT NOT AN EMPLOYEE) OF A PROFESSIONAL  
23 SOLICITOR WHO SOLICITS UNDER A CONTRACT OR AGREEMENT ON BEHALF OF THE  
24 PROFESSIONAL SOLICITOR FOR THE BENEFIT OF ANY CHARITABLE ORGANIZATION WITH  
25 WHICH THE PROFESSIONAL SOLICITOR HAS A CONTRACT OR AGREEMENT.
- 26 1.18 **TAX YEAR:** THE ANNUAL ACCOUNTING PERIOD FOR WHICH THE FORM 990 IS BEING FILED,  
27 WHETHER THE CALENDAR YEAR ENDING DECEMBER 31<sup>ST</sup> OR A FISCAL YEAR ENDING ON THE  
28 LAST DAY OF ANY OTHER MONTH.

29 New Rule 2 would be adopted as follows:

30 **RULE 2. ELECTRONIC FILING**

- 31 2.1 ALL FILINGS WITH THE OFFICE OF THE SECRETARY OF STATE THAT ARE REQUIRED OR  
32 PERMITTED BY TITLE 6, ARTICLE 16, C.R.S., THE "COLORADO CHARITABLE SOLICITATIONS  
33 ACT," SHALL BE MADE ELECTRONICALLY, THROUGH THE USE OF THE SECRETARY OF  
34 STATE'S INTERNET CHARITABLE SOLICITATION REGISTRATION AND REPORTING SYSTEM,  
35 AND SHALL BE IN THE FORMAT PRESCRIBED BY THE SECRETARY OF STATE. NO SUCH FILING  
36 ATTEMPTED ON PAPER SHALL BE DEEMED VALID, NOR SHALL ANY PAPER FILING TENDERED  
37 IN CONNECTION WITH THE ABOVE CITED ACT BE ACCEPTED BY THE SECRETARY OF STATE



1 2.2 THE SECRETARY OF STATE SHALL ISSUE A UNIQUE USER IDENTIFICATION NUMBER AND  
2 PASSWORD TO ANY CHARITABLE ORGANIZATION, PAID SOLICITOR, OR PROFESSIONAL  
3 FUNDRAISING CONSULTANT WHO REQUESTS TO FILE PURSUANT TO TITLE 6, ARTICLE 16,  
4 C.R.S., PROVIDED THAT SUCH REQUESTER FIRST FURNISHES ANY INFORMATION,  
5 AGREEMENT OR AFFIRMATION THAT THE SECRETARY OF STATE REQUIRES IN ORDER TO  
6 ESTABLISH AND MAINTAIN AN ACCURATE, ACCESSIBLE, AND SECURE ELECTRONIC  
7 CHARITABLE SOLICITATIONS FILING AND INFORMATION SYSTEM. SUBMISSION OF A FILING  
8 WITH THE IDENTIFICATION NUMBER AND PASSWORD DESCRIBED IN THIS RULE 2 SHALL  
9 CONSTITUTE THE FILER'S OFFICIAL SIGNATURE, IN ACCORD WITH SECTION 24-71.1-106,  
10 C.R.S., AFFIXED UNDER PENALTY OF PERJURY, AS PROVIDED BY LAW.

11 New Rule 3 would be adopted as follows:

12 **RULE 3. EXPEDITED HEARING DEADLINES**

13 3.1 UPON RECEIPT OF A REQUEST FOR HEARING PURSUANT TO SECTION 6-16-111 (6) (B),  
14 C.R.S., THE SECRETARY OF STATE SHALL SET AND GIVE NOTICE OF THE REQUESTED  
15 HEARING. SUCH NOTICE SHALL BE SERVED WITHIN FIVE BUSINESS DAYS OF THE SECRETARY  
16 OF STATE'S RECEIPT OF THE HEARING REQUEST, AND SHALL SET THE HEARING ON A DATE  
17 NO SOONER THAN TEN AND NO LATER THAN TWENTY CALENDAR DAYS AFTER THE DATE OF  
18 SERVICE OF THE NOTICE. FOR THE PURPOSES OF THIS RULE 3, ANY NOTICE BY MAIL SHALL  
19 BE DEEMED SERVED ON THE DATE OF ITS POSTMARK.

20 3.2 PROCEEDINGS CONDUCTED PURSUANT TO SECTION 6-15-111 (6), C.R.S., AND THIS RULE 3  
21 MAY, IN THE DISCRETION OF THE SECRETARY OF STATE, BE CONTINUED FOR GOOD CAUSE  
22 SHOWN BY ANY PARTY TO SUCH PROCEEDINGS. ANY CONTINUANCE SHALL BE AS BRIEF AS  
23 PRACTICABLE, AND NO CONTINUANCE SHALL BE FOR A PERIOD LONGER THAN TEN DAYS.

24 3.3 THE SECRETARY OF STATE SHALL CONCLUDE ALL EXPEDITED HEARINGS WITH  
25 REASONABLE DISPATCH, AND SHALL TAKE FINAL AGENCY ACTION, INCLUDING, BUT  
26 WITHOUT LIMITATION, ISSUANCE OF ALL SUCH ADMINISTRATIVE FINDINGS, DECISIONS, AND  
27 ORDERS AS THE SECRETARY CONSIDERS APPROPRIATE, WITHIN TWENTY CALENDAR DAYS  
28 FROM THE DATE ON WHICH ANY SUCH EXPEDITED PROCEEDING IS CONCLUDED.

29 New Rule 4 would be adopted as follows:

30 **RULE 4. ISSUING REGISTRATION NUMBERS**

31 4.1 UPON APPROVAL BY THE SECRETARY OF STATE OF AN INITIAL OR RENEWAL REGISTRATION  
32 STATEMENT OF A CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT,  
33 OR PAID SOLICITOR, THE SECRETARY OF STATE OR HIS DESIGNEE SHALL ISSUE OR UPDATE  
34 THE STATUS OF A PERMANENT REGISTRATION NUMBER. THE SECRETARY OF STATE OR HIS  
35 DESIGNEE SHALL SEND A CONFIRMATION TO THE EMAIL ADDRESS OF THE AUTHORIZED  
36 OFFICER AND REGISTERED AGENT, REFLECTING THE ORGANIZATION'S NAME AND ANY  
37 DBAs, ITS PERMANENT REGISTRATION NUMBER, THE DOCUMENT NUMBER OF THE FILING,  
38 THE ORGANIZATION'S FEDERAL EMPLOYER ID NUMBER (FEIN), THE ADDRESS OF THE  
39 PRINCIPAL PLACE OF BUSINESS, THE DATE THE DOCUMENT WAS APPROVED, THE DATE THE

1 SUBSEQUENT RENEWAL WILL BE (OR WAS) DUE, THE NAME OF THE PERSON WHO SIGNED THE  
2 DOCUMENT, AND THE DATE IT WAS SIGNED.

3 4.2 THE SECRETARY OF STATE OR HIS DESIGNEE SHALL PROVIDE AN ELECTRONIC "CERTIFICATE  
4 OF REGISTRATION/NONCOMPLIANCE" IN THE FORM OF A PRINTABLE ELECTRONIC  
5 CERTIFICATE WHICH WILL DISPLAY THE REGISTRATION STATUS OF A REGISTRANT TO ANY  
6 USER OF THE WEB SITE UPON REQUEST. THE CERTIFICATE WILL INDICATE WHETHER THE  
7 REGISTRANT IS REGISTERED OR OUT OF COMPLIANCE WITH THE FILING REQUIREMENTS OF  
8 THE CCSA AND LIST THE ORGANIZATION'S REGISTRATION NUMBER, ENTITY TYPE  
9 (CHARITABLE ORGANIZATION, PAID SOLICITOR, OR PROFESSIONAL FUNDRAISING  
10 CONSULTANT), STATUS, THE DATE THAT STATUS WAS ESTABLISHED, AND THE DATE BY  
11 WHICH THE ORGANIZATION MUST RENEW OR SHOULD HAVE RENEWED ITS REGISTRATION OR  
12 REPLACED ESTIMATED FINANCIAL FIGURES WITH ACTUAL FIGURES. THIS PROVISION WILL  
13 TAKE EFFECT ON MAY 1, 2009.

14 4.3 THE REGISTRATION OF A CHARITABLE ORGANIZATION, PAID SOLICITOR, OR PROFESSIONAL  
15 FUNDRAISING CONSULTANT SHALL BE LISTED AS "GOOD" ON THE CHARITABLE  
16 SOLICITATIONS WEBSITE AFTER THE SECRETARY OF STATE'S OFFICE HAS ACCEPTED ITS  
17 INITIAL OR RENEWAL REGISTRATION STATEMENT, PROVIDING THAT THE RENEWAL IS FOR  
18 THE MOST RECENT TAX PERIOD. INITIAL REGISTRATIONS WILL RESULT IN A "GOOD" STATUS  
19 SUBJECT TO RULES 5.8 AND 5.9.

20 4.4 THE REGISTRATION OF A CHARITABLE ORGANIZATION, PAID SOLICITOR, OR PROFESSIONAL  
21 FUNDRAISING CONSULTANT SHALL BE LISTED AS DELINQUENT EFFECTIVE ON THE FIRST DAY  
22 AFTER ITS RENEWAL DEADLINE HAS PASSED.

23 4.5 IF A PAID SOLICITOR HAS NOT SUBMITTED A SOLICITATION CAMPAIGN FINANCIAL REPORT  
24 ("CAMPAIGN REPORT") ON OR BEFORE THE NINETIETH DAY FOLLOWING THE CAMPAIGN  
25 END DATE LISTED ON THE SOLICITATION NOTICE, THE CAMPAIGN REPORT SHALL BE LISTED  
26 AS OVERDUE, AND THE PAID SOLICITOR'S REGISTRATION STATUS SHALL BE LISTED AS  
27 DELINQUENT.

28 New Rule 5 would be adopted as follows:

29 **RULE 5. FILING DEADLINES AND EXTENSION OF FILING DEADLINES**

30 5.1 ONLY CHARITABLE ORGANIZATIONS MAY REQUEST AN EXTENSION OF THE DEADLINE FOR  
31 RENEWING A REGISTRATION. THIS OPTION IS NOT AVAILABLE TO PROFESSIONAL  
32 FUNDRAISING CONSULTANTS AND PAID SOLICITORS.

33 5.1.1 ALL REQUESTS FOR AN EXTENSION SHALL BE FILED ELECTRONICALLY ON THE  
34 SECRETARY OF STATE'S WEB SITE BY LOGGING IN AND E-FILING THE NECESSARY  
35 DOCUMENT. NEITHER FILING FOR AN EXTENSION WITH THE IRS NOR SUBMITTING A  
36 COPY OF SUCH A REQUEST (IRS FORM 8868) TO THE SECRETARY OF STATE IS  
37 SUFFICIENT TO EXTEND A FILING DEADLINE. THE SECRETARY OF STATE WILL NOT  
38 CONSIDER REQUESTS TO WAIVE LATE FILING FEES ON THE GROUNDS THAT THE

1 ORGANIZATION FILED FOR AN EXTENSION WITH THE IRS, BUT NEGLECTED TO FILE  
2 FOR AN EXTENSION WITH THE SECRETARY OF STATE.

3 5.1.2 TO AVOID INCURRING LATE FEES, CHARITABLE ORGANIZATIONS MUST FILE A  
4 REGISTRATION RENEWAL OR AN EXTENSION ON OR BEFORE THE FILING DEADLINE.  
5 CHARITABLE ORGANIZATIONS THAT FAIL TO FILE AN EXTENSION REQUEST ON TIME  
6 WITH THE SECRETARY OF STATE WILL BE SUBJECT TO A LATE FEE, EVEN IF IT IS  
7 STILL WITHIN THE PERIOD DURING WHICH AN EXTENSION WOULD HAVE APPLIED IF  
8 IT HAD BEEN TIMELY FILED.

9 5.2 A PROFESSIONAL FUNDRAISING CONSULTANT OR PAID SOLICITOR MAY RENEW ITS  
10 REGISTRATION NO EARLIER THAN SIXTY DAYS BEFORE ITS ANNIVERSARY DATE.

11 5.3 THE RANGE OF CAMPAIGN DATES THAT MAY BE LISTED ON A SOLICITATION NOTICE IS ONE  
12 YEAR OR LESS.

13 5.4 CHARITABLE ORGANIZATIONS THAT REGISTER INITIALLY, USING INFORMATION FROM THE  
14 FISCAL YEAR PRIOR TO THE ORGANIZATION'S MOST RECENT FISCAL YEAR, HAVE 14 DAYS  
15 FROM THE DATE THE INITIAL REGISTRATION IS APPROVED IN WHICH TO FILE AN EXTENSION  
16 OF THE DEADLINE FOR THE MOST RECENT FISCAL YEAR OR A RENEWAL COVERING THE MOST  
17 RECENT FISCAL YEAR. ORGANIZATIONS FAILING TO FILE FOR SUCH EXTENSION WILL BEGIN  
18 RECEIVING DELINQUENCY NOTICES ON THE 15<sup>TH</sup> DAY AFTER THE FILE DATE OF THE INITIAL  
19 REGISTRATION.

20 New Rule 6 would be adopted as follows:

21 **RULE 6. REMINDER NOTICES AND DELINQUENCY NOTICES**

22 6.1 THE SECRETARY OF STATE OR HIS DESIGNEE SHALL MAIL A REMINDER NOTICE TO THE  
23 AUTHORIZED OFFICER AND REGISTERED AGENT OF ALL REGISTERED CHARITABLE  
24 ORGANIZATIONS, AND TO THE PRINCIPAL ADDRESS OF PROFESSIONAL FUNDRAISING  
25 CONSULTANTS AND PAID SOLICITORS 14 DAYS PRIOR TO THEIR RENEWAL DEADLINES. A  
26 SECOND NOTICE WILL BE MAILED TO THE AUTHORIZED OFFICER AND REGISTERED AGENT  
27 ONE DAY AFTER THE DEADLINE, IF THE REGISTERED CHARITABLE ORGANIZATION HAS  
28 FAILED TO RENEW ITS REGISTRATION. A SUSPENSION NOTICE WILL BE MAILED TO THE  
29 ORGANIZATION'S REGISTERED AGENT AND TO THE PRESIDENT OR CHAIR OF THE BOARD OF  
30 DIRECTORS ON THE 60<sup>TH</sup> DAY AFTER THE RENEWAL DEADLINE.

31 6.2 IF THE REGISTRATION STATEMENT OF A CHARITABLE ORGANIZATION, PAID SOLICITOR, OR  
32 PROFESSIONAL FUNDRAISING CONSULTANT IS NOT RENEWED BY THE PRESCRIBED DEADLINE  
33 OR DEADLINE EXTENSION GRANTED BY SECRETARY OF STATE OR HIS DESIGNEE, THE  
34 STATUS OF ITS REGISTRATION SHALL BE LISTED AS DELINQUENT EFFECTIVE ON THE FIRST  
35 DAY AFTER THE DEADLINE HAS PASSED, AND SUSPENDED ON THE 60<sup>TH</sup> DAY AFTER THE  
36 DEADLINE HAS PASSED. ONCE AN ORGANIZATION'S REGISTRATION HAS BEEN SUSPENDED,  
37 IT MUST CEASE SOLICITING CONTRIBUTIONS IN COLORADO, UNTIL IT HAS CURED THE  
38 REASON FOR SUSPENSION BY RENEWING ITS REGISTRATION FOR ALL OVERDUE TAX YEARS  
39 AND PAYING ALL OUTSTANDING REGISTRATION FEES AND FINES.

1 6.3 IF A PAID SOLICITOR HAS NOT SUBMITTED A SOLICITATION CAMPAIGN FINANCIAL REPORT  
2 (“CAMPAIGN REPORT”) ON OR BEFORE THE NINETIETH DAY FOLLOWING THE CAMPAIGN  
3 END DATE LISTED ON THE SOLICITATION NOTICE, DELINQUENT NOTICES SHALL BE SENT TO  
4 THE AUTHORIZED OFFICERS AND REGISTERED AGENTS OF THE PAID SOLICITOR AND  
5 CHARITABLE ORGANIZATION ONE DAY AND 15 DAYS AFTER THE DEADLINE. A SUSPENSION  
6 NOTICE SHALL BE SENT ON THE 60<sup>TH</sup> DAY AFTER THE DEADLINE.

7 New Rule 7 would be adopted as follows:

8 **RULE 7. FINES**

9 7.1 ANY CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID  
10 SOLICITOR WHO, AFTER RECEIVING ONE REMINDER NOTICE AND ONE DELINQUENT NOTICE  
11 BY MAIL ADDRESSED TO THE AUTHORIZED OFFICER AND REGISTERED AGENT, FAILS TO  
12 PROPERLY RENEW OR UPDATE A REGISTRATION, FILE A SOLICITATION NOTICE, OR FILE A  
13 FINANCIAL REPORT OF A SOLICITATION CAMPAIGN BY THE END OF THE SEVENTH DAY  
14 FOLLOWING THE ISSUANCE OF THE FINAL NOTICE, IS LIABLE FOR A LATE FEE OF UP TO ONE  
15 HUNDRED DOLLARS PER YEAR FOR CHARITIES OR TWO HUNDRED DOLLARS PER YEAR FOR  
16 PAID SOLICITORS.

17 7.1.1 LATE FEES FOR OVERDUE FILINGS WILL INCREASE THE LONGER AN ORGANIZATION  
18 IS DELINQUENT. THE MAXIMUM LATE FEE WILL BE IMPOSED ON THE 60<sup>TH</sup> DAY  
19 AFTER DEADLINE.

20 7.1.2 ONCE AN ORGANIZATION HAS BEEN ASSESSED A LATE FEE, IT MUST PAY THE LATE  
21 FEE IN ADDITION TO THE REGULAR FILING FEE IN ORDER TO ACHIEVE COMPLIANCE.

22 7.2 AN ORGANIZATION THAT SOLICITS CONTRIBUTIONS WITHOUT REGISTERING WITH THE  
23 SECRETARY OF STATE SHALL BE LIABLE FOR A FINE OF THREE HUNDRED DOLLARS PER  
24 YEAR FOR CHARITIES AND ONE THOUSAND DOLLARS PER YEAR FOR PAID SOLICITORS.

25 7.2.1 FINES FOR SOLICITING WHILE UNREGISTERED WILL INCREASE THE LONGER AN  
26 ORGANIZATION FAILS TO RESPOND TO THE SECRETARY OF STATE’S NOTICES OF THE  
27 NEED TO REGISTER OR STATE THE BASIS FOR ITS EXEMPTION TO THE REGISTRATION  
28 REQUIREMENT.

29 7.2.2 ONCE AN ORGANIZATION HAS BEEN FINED FOR SOLICITING WHILE UNREGISTERED, IT  
30 MUST PAY THE FINE IN ADDITION TO THE REGULAR FILING FEE IN ORDER TO ACHIEVE  
31 COMPLIANCE.

32 7.3 ANY CHARITY, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR  
33 REGISTERED WITH THE SECRETARY OF STATE OR SUBJECT TO REGISTRATION UNDER 6-16-  
34 104(1), C.R.S., MAY REQUEST AN IMPOSED FINE TO BE EXCUSED OR REDUCED BY  
35 SUBMITTING A WRITTEN REQUEST BY LETTER, EMAIL, FAX OR HAND-DELIVERY. THE  
36 REQUEST SHALL INCLUDE:

- 1           • THE NAME OF THE CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING  
2           CONSULTANT, OR PAID SOLICITOR
- 3           • THE DATE OF THE REQUEST
- 4           • THE DUE DATE OF THE DELINQUENTLY FILED REGISTRATION DOCUMENT(S)
- 5           • THE ACTUAL FILING DATE OF THE DELINQUENTLY FILED REGISTRATION  
6           DOCUMENT(S)
- 7           • A BRIEF SUMMARY OF THE REASONS, CIRCUMSTANCES, OR OTHER JUSTIFICATION OF  
8           THE BONA FIDE PERSONAL EMERGENCY
- 9           • ANY MEASURES THE CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING  
10          CONSULTANT, OR PAID SOLICITOR HAS INSTITUTED OR PLANS TO INSTITUTE TO  
11          AVOID FUTURE DELINQUENCIES, IF APPLICABLE
- 12          • OTHER RELEVANT INFORMATION

13           IF THE CHARITY, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR  
14           REQUESTS AN IMPOSED FINE TO BE EXCUSE OR REDUCED, THE CHARITIES PROGRAM STAFF  
15           WILL CONDUCT AN INVESTIGATION TO EXCUSE OR REDUCE IMPOSED FINES.

16           FOLLOWING THAT DETERMINATION, STAFF WILL GENERATE A LETTER TO THE CHARITABLE  
17           ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR  
18           NOTIFYING THE REGISTRANT OF THE DECISION.

19           7.3.1 THE SECRETARY OF STATE CONSIDERS A BONA FIDE PERSONAL EMERGENCY TO BE A  
20           VERY RARE EXCEPTION TO THE COMMITMENT TO FULFILL THE REQUIREMENTS OF  
21           LAWS CONCERNING CHARITABLE SOLICITATIONS. DEPENDING ON THE  
22           CIRCUMSTANCES, THE SECRETARY GENERALLY CONSIDERS ONE OR MORE OF THE  
23           FOLLOWING POSSIBLE JUSTIFICATIONS A **BONA FIDE PERSONAL EMERGENCY**:

- 24           • PERSONAL EMERGENCIES, INCLUDING BUT NOT LIMITED TO,  
25           INCAPACITATION FOR MEDICAL REASONS, HOSPITALIZATION, ACCIDENT  
26           INVOLVEMENT, DEATH OF PERSONS OR TO MEMBERS OF SUCH PERSONS'  
27           IMMEDIATE FAMILY.
- 28           • PRACTICAL OBSTACLES OUT OF THE CONTROL OF THE REGISTRANT WHICH  
29           PRECLUDE TIMELY DISCLOSURE SUCH AS THE LOSS OR UNAVAILABILITY OF  
30           RECORDS OR A COMPUTER DUE TO FIRE, FLOOD OR THEFT.
- 31           • OTHER EXTRAORDINARY REASONS. THESE INCLUDE COMPELLING REASONS  
32           BEYOND THE REGISTRANT'S CONTROL.

33           7.3.2 THE FOLLOWING ARE GENERALLY NOT CONSIDERED A **BONA FIDE PERSONAL**  
34           **EMERGENCY**:

- 1           • FAILURE TO TIMELY FILE REGISTRATION DOCUMENTS AS A RESULT OF LACK OF  
2           PLANNING
- 3           • PRIORITIES OF ACCOUNTANT RESPONSIBLE FOR FILING STATE REGISTRATION FORMS  
4           AND FEDERAL INFORMATION RETURNS (FORMS 990, 990-EZ, 990-PF, 990-N, 990-  
5           T)
- 6           • MISUNDERSTANDING OF APPLICABLE DISCLOSURE REQUIREMENTS AND DEADLINES
- 7           • MISTAKES IN ELECTRONIC FILING SUBMISSION, INCLUDING INCOMPLETE FILINGS  
8           RESULTING IN REJECTION OF THE FILED DOCUMENT.
- 9           • LACK OF ACCESS TO INTERNET OR PERSONAL COMPUTER.
- 10          • LACK OF CORPORATE CREDIT CARD OR OTHER MEANS FOR MAKING ONLINE  
11          PAYMENTS.

12          7.3.3. THE SECRETARY OF STATE SHALL ISSUE DECISIONS DEPENDING ON INDIVIDUAL  
13          FACTS AND CIRCUMSTANCES. ALTHOUGH CIRCUMSTANCES VARY, THE CRITERION  
14          THAT IS CENTRALLY DISPOSITIVE WHEN REVIEWING A REQUEST TO EXCUSE OR  
15          REDUCE IMPOSED FINES IS THE ESTABLISHMENT OF A BONA FIDE PERSONAL  
16          EMERGENCY AS DEFINED ABOVE. IF UNCERTAIN, THE SECRETARY MAY ALSO  
17          CONSIDER THE FREQUENCY OF REQUESTS TO EXCUSE OR REDUCE FINES WITHIN A  
18          TWO-YEAR PERIOD, AND THE REGISTRANT’S DEMONSTRATION OF COMMITMENT TO  
19          FULFILL THE REQUIREMENTS OF COLORADO’S LAWS CONCERNING CHARITABLE  
20          SOLICITATIONS.

21          7.4       THE RULES CONCERNING FINES FOR SOLICITING WHILE UNREGISTERED SHALL TAKE EFFECT  
22          ON APRIL 1, 2009.

23          New Rule 8 would be adopted as follows:

24          **RULE 8. SUSPENSIONS**

25          8.1       IF THE SECRETARY OF STATE HAS NOT RECEIVED AN OVERDUE REGISTRATION OR RENEWAL  
26          OR A REQUEST FOR A HEARING FROM A DELINQUENT CHARITABLE ORGANIZATION,  
27          PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID SOLICITOR BEFORE THE SIXTIETH DAY  
28          AFTER THE DEADLINE OR DEADLINE EXTENSION GRANTED BY SECRETARY OF STATE OR HIS  
29          DESIGNEE, THE REGISTRATION SHALL BE SUSPENDED. A SUSPENSION NOTICE WILL BE  
30          MAILED TO THE ORGANIZATION’S AUTHORIZED OFFICER AND REGISTERED AGENT ON THE  
31          60TH DAY AFTER THE DEADLINE, AND THE ORGANIZATION WILL INCUR THE MAXIMUM LATE  
32          FEE. ALL SOLICITATIONS IN COLORADO MUST CEASE UNTIL ANY LATE FEES AND FILING  
33          FEES HAVE BEEN PAID AND THE SUSPENSION HAS BEEN CURED.

34          8.2       ANY PAID SOLICITOR WHO, AFTER RECEIVING TWO DELINQUENT NOTICES BY MAIL  
35          ADDRESSED TO THE AUTHORIZED OFFICER AND REGISTERED AGENT FAILS TO PROPERLY FILE  
36          A FINANCIAL REPORT OF A SOLICITATION CAMPAIGN OR A REQUEST FOR A HEARING BY THE

1 END OF THE SEVENTH DAY FOLLOWING THE ISSUANCE OF THE FINAL NOTICE, SHALL HAVE  
2 ITS REGISTRATION SUSPENDED. ALL SOLICITATION ACTIVITY ON BEHALF OF ANY CLIENT OF  
3 THE PAID SOLICITOR IN COLORADO MUST CEASE, UNTIL THE SUSPENSION HAS BEEN CURED  
4 AND ALL APPLICABLE FEES AND FINES HAVE BEEN PAID.

5 8.3 A PAID SOLICITOR WHO HAS NOT SUBMITTED A SOLICITATION CAMPAIGN FINANCIAL  
6 REPORT ON OR BEFORE THE PRESCRIBED DEADLINE SHALL NOT BE PERMITTED TO BEGIN  
7 ANY NEW SOLICITATION CAMPAIGN OR TO FILE ANY NEW SOLICITATION NOTICE UNTIL THE  
8 OVERDUE CAMPAIGN REPORT HAS BEEN SUBMITTED AND APPROVED BY THE SECRETARY OF  
9 STATE.

10 New Rule 9 would be adopted as follows:

11 **RULE 9. WITHDRAWING A REGISTRATION**

12 9.1 A CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID  
13 SOLICITOR MAY REQUEST TO WITHDRAW ITS REGISTRATION BY NOTIFYING THE SECRETARY  
14 OF STATE. UPON APPROVING SUCH A REQUEST, THE SECRETARY OF STATE SHALL LIST THE  
15 REGISTRATION STATUS AS WITHDRAWN.

16 9.2 A CHARITABLE ORGANIZATION SHALL NOT BE PERMITTED TO WITHDRAW ITS REGISTRATION  
17 UNLESS AND UNTIL SUCH ORGANIZATION HAS FILED A FINAL RENEWAL AND FINANCIAL  
18 REPORT TO COVER THE MOST RECENT TAX YEAR IN WHICH IT WAS SUBJECT TO THE  
19 REGISTRATION REQUIREMENTS OF THE COLORADO CHARITABLE SOLICITATIONS ACT,  
20 UNLESS IT IS A NEWLY-FORMED CHARITABLE ORGANIZATION.

21 9.3 A NEWLY-FORMED CHARITABLE ORGANIZATION MAY REQUEST TO WITHDRAW ITS  
22 REGISTRATION UNCONDITIONALLY IF IT DETERMINES THAT IT REGISTERED BY MISTAKE IN  
23 THE FIRST PLACE.

24 9.4 A PAID SOLICITOR SHALL NOT BE PERMITTED TO WITHDRAW ITS REGISTRATION UNLESS AND  
25 UNTIL SUCH SOLICITOR HAS FILED A COMPLETE, ACCURATE SOLICITATION CAMPAIGN  
26 FINANCIAL REPORT FOR EVERY SOLICITATION CAMPAIGN FOR WHICH SUCH SOLICITOR HAS  
27 FILED A NOTICE.

28 9.5 A PROFESSIONAL FUNDRAISING CONSULTANT SHALL NOT BE PERMITTED TO WITHDRAW ITS  
29 REGISTRATION UNLESS AND UNTIL SUCH ORGANIZATION HAS FILED A REGISTRATION  
30 RENEWAL TO COVER THE MOST RECENT FISCAL YEAR IN WHICH IT WAS SUBJECT TO THE  
31 REGISTRATION REQUIREMENTS OF THE COLORADO CHARITABLE SOLICITATIONS ACT.

32 New Rule 10 would be adopted as follows:

33 **RULE 10. REINSTATING A SUSPENDED OR WITHDRAWN REGISTRATION**

34 10.1 A CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING CONSULTANT, OR PAID  
35 SOLICITOR MAY REINSTATE A REGISTRATION THAT HAS BEEN SUSPENDED OR WITHDRAWN.

1 10.1.1 A WITHDRAWN CHARITY MAY BE REINSTATED, IF IT FILES A REGISTRATION  
2 RENEWAL FOR EACH YEAR IN WHICH ITS REGISTRATION WAS WITHDRAWN. IF  
3 NECESSARY, A REINSTATED ORGANIZATION MAY FILE A DOCUMENT ATTESTING TO  
4 THE FACT THAT IT WAS NOT REQUIRED TO BE REGISTERED IN COLORADO FOR ANY  
5 PARTICULAR YEAR. THE ORGANIZATION'S REGISTRATION SHALL BE FULLY  
6 REINSTATED ONCE IT HAS FILED A REGISTRATION RENEWAL OR AN EXTENSION OF  
7 THE DEADLINE FOR THE MOST RECENT TAX YEAR THAT IS DUE.

8 10.1.2 A SUSPENDED CHARITABLE ORGANIZATION, PROFESSIONAL FUNDRAISING  
9 CONSULTANT, OR PAID SOLICITOR SHALL CORRECT THE DEFICIENCY FOR WHICH IT  
10 WAS SUSPENDED, AND, IF IT WAS SUBJECT TO THE REGISTRATION REQUIREMENTS OF  
11 THE COLORADO CHARITABLE SOLICITATIONS ACT DURING THE SUSPENSION  
12 PERIOD, IT MUST RETROACTIVELY RENEW ITS REGISTRATION AND PAY ANY  
13 APPLICABLE LATE FEES FOR ALL YEARS DURING WHICH IT WAS DELINQUENT OR  
14 SUSPENDED, BEFORE ITS REGISTRATION WILL BE REINSTATED.

15 10.1.3 A PAID SOLICITOR SHALL, IN ADDITION, FILE NOTICES AND CAMPAIGN REPORTS AND  
16 PAY ALL APPLICABLE LATE FEES FOR ANY SOLICITATION CAMPAIGNS CONDUCTED  
17 WHILE SUCH SOLICITOR'S REGISTRATION WAS SUSPENDED, BEFORE ITS  
18 REGISTRATION WILL BE REINSTATED.

19 New Rule 11 would be adopted as follows:

20 **RULE 11. RE-REGISTERING FOLLOWING A PERIOD OF REVOCATION**

21 NO CHARITABLE ORGANIZATION, PAID SOLICITOR, OR PROFESSIONAL FUNDRAISING CONSULTANT  
22 MAY REGISTER TO SOLICIT CONTRIBUTIONS IN COLORADO WITHOUT PRIOR APPROVAL FROM THE  
23 SECRETARY OF STATE'S OR HIS DESIGNEE AFTER ITS REGISTRATION HAS BEEN REVOKED.

24 New Rule 12 would be adopted as follows:

25 **RULE 12. APPLICATION OF REGISTRATION REQUIREMENTS TO INTERNET SOLICITATION**

26 12.1 ENTITIES THAT ARE DOMICILED WITHIN COLORADO

27 12.1.1 AN ENTITY THAT IS DOMICILED WITHIN COLORADO AND USES THE INTERNET TO  
28 CONDUCT CHARITABLE SOLICITATIONS IN COLORADO MUST REGISTER WITH THE  
29 SECRETARY OF STATE, UNLESS IT IS EXEMPT FROM THE REGISTRATION  
30 REQUIREMENTS PURSUANT TO SECTION 6-16-104(6), C.R.S. THIS IS TRUE WITHOUT  
31 REGARD TO WHETHER THE INTERNET SOLICITATION METHODS IT USES ARE PASSIVE  
32 OR INTERACTIVE, MAINTAINED BY ITSELF OR ANOTHER ENTITY WITH WHICH IT  
33 CONTRACTS, OR WHETHER IT CONDUCTS SOLICITATIONS IN ANY OTHER MANNER.

34 12.1.2 AN ENTITY IS DOMICILED WITHIN COLORADO IF ITS PRINCIPAL PLACE OF BUSINESS  
35 IS IN COLORADO.

36 12.2 ENTITIES THAT ARE DOMICILED OUTSIDE COLORADO



1 AN ENTITY THAT IS NOT DOMICILED IN COLORADO MUST REGISTER IN ACCORDANCE WITH THE LAW  
2 OF COLORADO, UNLESS IT IS EXEMPT FROM THE REGISTRATION REQUIREMENTS PURSUANT TO  
3 SECTION 6-16-104(6), C.R.S., IF:

4 12.2.1 ITS NON-INTERNET ACTIVITIES ALONE WOULD BE SUFFICIENT TO REQUIRE  
5 REGISTRATION;

6 12.2.2 THE ENTITY SOLICITS CONTRIBUTIONS THROUGH AN INTERACTIVE WEB SITE; AND

7 12.2.3 EITHER THE ENTITY:

8 12.2.3.1 SPECIFICALLY TARGETS PERSONS PHYSICALLY LOCATED IN  
9 COLORADO FOR SOLICITATION, OR

10 12.2.3.2 RECEIVES CONTRIBUTIONS FROM COLORADO ON A REPEATED AND  
11 ONGOING BASIS OR A SUBSTANTIAL BASIS THROUGH ITS WEB SITE; OR

12 12.2.4 THE ENTITY SOLICITS CONTRIBUTIONS THROUGH A SITE THAT IS NOT INTERACTIVE,  
13 BUT EITHER SPECIFICALLY INVITES FURTHER OFFLINE ACTIVITY TO COMPLETE A  
14 CONTRIBUTION, OR ESTABLISHES OTHER CONTACTS WITH COLORADO, SUCH AS  
15 SENDING E-MAIL MESSAGES OR OTHER COMMUNICATIONS THAT PROMOTE THE WEB  
16 SITE; AND

17 12.2.5 THE ENTITY SATISFIES 12.2.3

18 12.3 FOR PURPOSES OF THIS RULE 12, EACH OF THE FOLLOWING TERMS SHALL HAVE THE  
19 FOLLOWING MEANINGS:

20 12.3.1 **INTERACTIVE WEB SITE:** A WEB SITE THAT PERMITS A CONTRIBUTOR TO MAKE A  
21 CONTRIBUTION, OR PURCHASE A PRODUCT IN CONNECTION WITH A CHARITABLE  
22 SOLICITATION, BY ELECTRONICALLY COMPLETING THE TRANSACTION, SUCH AS BY  
23 SUBMITTING CREDIT CARD INFORMATION OR AUTHORIZING AN ELECTRONIC FUNDS  
24 TRANSFER. INTERACTIVE SITES INCLUDE SITES THROUGH WHICH A DONOR MAY  
25 COMPLETE A TRANSACTION ONLINE THROUGH ANY ONLINE MECHANISM  
26 PROCESSING A FINANCIAL TRANSACTION EVEN IF COMPLETION REQUIRES THE USE  
27 OF LINKED OR REDIRECTED SITES. A WEB SITE IS INTERACTIVE IF IT HAS THIS  
28 CAPACITY, REGARDLESS OF WHETHER DONORS ACTUALLY USE IT.

29 12.3.2 **TARGET PERSONS:** TO SPECIFICALLY TARGET PERSONS PHYSICALLY LOCATED IN  
30 COLORADO FOR SOLICITATION MEANS TO EITHER

31 12.3.2.1 INCLUDE ON ITS WEB SITE AN EXPRESS OR IMPLIED REFERENCE TO  
32 SOLICITING CONTRIBUTIONS FROM COLORADO; OR

33 12.3.2.2 TO OTHERWISE AFFIRMATIVELY APPEAL TO RESIDENTS OF  
34 COLORADO, SUCH AS BY ADVERTISING OR SENDING MESSAGES TO PERSONS  
35 LOCATED IN COLORADO (ELECTRONICALLY OR OTHERWISE) WHEN THE

1 ENTITY KNOWS OR REASONABLY SHOULD KNOW THE RECIPIENT IS  
2 PHYSICALLY LOCATED IN COLORADO. CHARITIES OPERATING ON A PURELY  
3 LOCAL BASIS, OR WITHIN A LIMITED GEOGRAPHIC AREA, DO NOT TARGET  
4 STATES OUTSIDE THEIR OPERATING AREA, IF THEIR WEB SITE MAKES CLEAR  
5 IN CONTEXT THAT THEIR FUNDRAISING FOCUS IS LIMITED TO THAT AREA  
6 EVEN IF THEY RECEIVE CONTRIBUTIONS FROM OUTSIDE THAT AREA ON LESS  
7 THAN A REPEATED AND ONGOING BASIS OR ON A SUBSTANTIAL BASIS.

8 **12.3.3 REPEATED AND ONGOING OR SUBSTANTIAL BASIS:** TO RECEIVE CONTRIBUTIONS  
9 FROM COLORADO ON A REPEATED AND ONGOING BASIS OR A SUBSTANTIAL BASIS  
10 MEANS RECEIVING CONTRIBUTIONS WITHIN THE ENTITY'S FISCAL YEAR, OR  
11 RELEVANT PORTION OF A FISCAL YEAR, THAT ARE OF SUFFICIENT VOLUME TO  
12 ESTABLISH THE REGULAR OR SIGNIFICANT (AS OPPOSED TO RARE, ISOLATED, OR  
13 INSUBSTANTIAL) NATURE OF THOSE CONTRIBUTIONS. AN ENTITY RECEIVES  
14 CONTRIBUTIONS ON A *REPEATED AND ONGOING* BASIS IF IT RECEIVES AT LEAST 50  
15 ONLINE CONTRIBUTIONS AT ANY TIME IN A YEAR, AND IT RECEIVES *SUBSTANTIAL*  
16 CONTRIBUTIONS IF IT RECEIVES \$25,000 OR 1% OF ITS TOTAL CONTRIBUTIONS,  
17 WHICHEVER IS LESS, IN ONLINE CONTRIBUTIONS IN A YEAR.

18 **12.3.4** AN ENTITY THAT SOLICITS VIA E-MAIL INTO COLORADO SHALL BE TREATED THE  
19 SAME AS ONE THAT SOLICITS VIA TELEPHONE OR DIRECT MAIL, IF THE SOLICITING  
20 PARTY KNEW OR REASONABLY SHOULD HAVE KNOWN THAT THE RECIPIENT WAS A  
21 RESIDENT OF OR WAS PHYSICALLY LOCATED IN COLORADO.

22 **12.4** SOLICITATIONS FOR THE SALE OF A PRODUCT OR SERVICE THAT INCLUDE A  
23 REPRESENTATION THAT SOME PORTION OF THE PRICE SHALL BE DEVOTED TO A CHARITABLE  
24 ORGANIZATION OR CHARITABLE PURPOSE (OFTEN REFERRED TO AS "COMMERCIAL  
25 COVENTURING" OR "CAUSE MARKETING" AND DEFINED IN SECTION 6-16-103(3), C.R.S., AS  
26 A "CHARITABLE SALES PROMOTION") SHALL BE GOVERNED BY THE SAME STANDARDS AS  
27 OTHERWISE SET OUT IN THIS RULE 12 AND PURSUANT TO SECTION 6-16-104(1), C.R.S.

28 **12.5** NOTHING IN THIS RULE 12 IS INTENDED TO LIMIT OR EXPAND UPON THE EXCEPTION TO THE  
29 DEFINITION OF A PAID SOLICITOR LISTED IN SECTION 6-16-103(7)(F), C.R.S., WHICH STATES  
30 THAT A PERSON WHOSE ONLY RESPONSIBILITY IN CONNECTION WITH A CHARITABLE  
31 CONTRIBUTION IS TO PROVIDE A MERCHANT ACCOUNT TO PROCESS CREDIT CARD PAYMENTS  
32 USING THE INTERNET.

33 New Rule 13 would be adopted as follows:

34 **RULE 13. CONTACT INFORMATION FOR CUSTODIANS OF BOOKS AND RECORDS**

35 WHEREVER A CHARITABLE SOLICITATIONS FILING, INCLUDING BUT NOT LIMITED TO SOLICITATION  
36 CAMPAIGN FINANCIAL REPORTS, CALLS FOR THE NAME AND ADDRESS OF A PERSON WITH CUSTODY  
37 OF BOOKS AND RECORDS, SUCH NAME SHALL BE THAT OF A NATURAL PERSON AND SUCH ADDRESS  
38 SHALL BE A PHYSICAL STREET ADDRESS OF THAT PERSON'S PLACE OF BUSINESS, EMPLOYMENT, OR  
39 RESIDENCE.

1 New Rule 14 would be adopted as follows:

2 **RULE 14. PAID SOLICITOR REGISTRATION**

3 14.1 PURSUANT TO 6-16-104.6(4), C.R.S., A PAID SOLICITOR MAY REGISTER AND PAY A SINGLE  
4 FEE ON BEHALF OF ITS AGENTS (INCLUDING ANY SUBCONTRACTORS), PROVIDED THAT EACH  
5 AGENT OR SUBCONTRACTOR IS LISTED ON THE PAID SOLICITOR'S REGISTRATION.

6 14.2 FOR ANY SPECIFIC SOLICITATION CAMPAIGN, ANY AGENT OR SUBCONTRACTOR NOT  
7 DIRECTLY UNDER CONTRACT TO THE REGISTERED PAID SOLICITOR MUST FILE ITS OWN  
8 REGISTRATION.

9 New Rule 15 would be adopted as follows:

10 **RULE 15. SUBCONTRACTORS**

11 15.1 FILING REQUIREMENTS

12 15.1.1 ANY SUBCONTRACTOR OPERATING UNDER A CONTRACT WITH A REGISTERED PAID  
13 SOLICITOR SHALL BE TREATED AS AN AGENT OF THAT PAID SOLICITOR AND IS NOT  
14 REQUIRED TO REGISTER. THE PAID SOLICITOR SHALL BE RESPONSIBLE FOR FILING  
15 ALL SOLICITATION NOTICES AND CAMPAIGN REPORTS.

16 15.1.2 ANY AGENT (BUT NOT AN EMPLOYEE) OF A SUBCONTRACTOR OPERATING UNDER A  
17 CONTRACT WITH THAT SUBCONTRACTOR TO SOLICIT SHALL REGISTER SEPARATELY.

18 15.2 AUTHORIZATION TO SOLICIT

19 15.2.1 SUBCONTRACTORS SHALL OPERATE UNDER A WRITTEN CONTRACT WITH  
20 REGISTERED PAID SOLICITORS AND SUCH CONTRACT SHALL BE PROVIDED TO THE  
21 SECRETARY OF STATE OR HIS DESIGNEE UPON REQUEST PURSUANT TO SECTION 6-  
22 16-104.6(2), C.R.S.

23 15.2.2 SUBCONTRACTORS SHALL KEEP RECORDS IN ACCORDANCE WITH SECTION 6-16-109,  
24 C.R.S., AND SHALL FURNISH THE ORIGINALS OR COPIES TO THE PAID SOLICITOR.