



Help Shape Colorado's Rules for the Administration of the Colorado Charitable Solicitations Act

Topic: Rules to implement legislative changes and clean up revisions

March 25, 2015

What is this about?

The Secretary of State is considering permanent rulemaking to implement House Bill 14-1206. Other proposed changes to the rules concerning Rules for the Administration of the Colorado Charitable Solicitations Act¹ are intended to improve the administration and enforcement of the Colorado Charitable Solicitations Act². We invite you to share your thoughts and recommendations as we develop a preliminary draft of proposed rules.

Please see the attached working draft rules. The following highlights the primary aims of the proposed draft rules:

- Clarify the definition of “agent”.
- Repeal the annotation concerning expired Rule 1.17.
- Clarify the definition of “State Elections Commission”.
- Repeal the rule defining “street address”.
- Clarify the rules concerning amending previously filed financial estimates.
- Repeal as unnecessary the rule concerning the assessment of late fees in addition to regular filing fees.
- Repeal as unnecessary the rule concerning filing past due documents in sequence.
- Set fines for paid solicitors by rule in accordance with HB 14-1206.
- Change existing references from “late fees” to “fines” to conform to the Colorado Charitable Solicitations Act.
- Make non-substantive changes to simplify or clarify words or phrases and other technical revisions as is necessary for consistency with Department rulemaking format and style.

Why does the Secretary need my help?

The Secretary values your feedback and we would very much like to hear your thoughts. We need your help to identify necessary revisions or additional guidance in order to propose

¹ 8 CCR 1505-9.

² Article 16, Title 6 of the Colorado Revised Statutes.

constructive and comprehensive draft rules for consideration during the formal rulemaking proceeding. Overall, your opinions and recommendations will help shape Colorado's Rules for the Administration of the Colorado Charitable Solicitations Act.

How do I submit my comments and what is the deadline?

You may email your written comments to SOS.Rulemaking@sos.state.co.us. To ensure consideration of your comments before the proposed draft is issued, please submit your comments by 5:00 p.m. on April 1, 2015.

Will my comment become part of the official record for the anticipated rulemaking?

Yes, we will incorporate your comment into the official record when we commence with formal rulemaking. Our office will identify your comment as information received in anticipation of rulemaking to support the development of the proposed draft rule. Please note that you will have an additional opportunity to provide testimony and/or written comments regarding the proposed rule during the rulemaking proceeding.

Will my comment appear on the Secretary of State website?

Yes, to promote transparency and to help generate discussion, our office will post a copy of your comment on the Secretary of State's website. You are not obligated to provide personal contact information with your submission. If it appears that you provided this information, we will redact your personal contact information prior to posting (including your home address, personal email address, and telephone number). To view the comments that we receive, please visit: www.sos.state.co.us/pubs/rule_making/CCSARuleComments.html.

Working Draft of Proposed Rules

Office of the Colorado Secretary of State Rules for the Administration of the Colorado Charitable Solicitations Act 8 CCR 1505-9

March 25, 2015

Please note the following formatting key:

Font effect	Meaning
Sentence case	Retained/modified current rule language
SMALL CAPS	New language
Strikethrough	Deletions
<i>[Italic blue font text]</i>	Annotations

1 *[Current 8 CCR 1505-9 is amended as follows:]*

2 *Amendments to Rule 1.2 concerning the definition of “agent”:*

3 1.2 “Agent” means an individual who, by the PRINCIPAL’S written authority, ~~and on the~~
4 ~~account of the principal,~~ transacts business or manages affairs for the principal, and ~~who~~
5 ~~is required to render an account of the business or affair~~ PROVIDES AN ACCOUNTING to the
6 principal. ~~“agent”~~“AGENT” includes “subcontractors.”

7 *Repeal annotation concerning expired Rule 1.17:*

8 ~~1.17 [Expired 05/15/2014 per House Bill 14-1123]~~

9 *Renumbering and amendments to Rule 1.18 defining “State Elections Commission:*

10 ~~1.18~~ 1.17 “State Elections Commission” ~~means,~~ INCLUDES, for the purposes of section 6-16-
11 104(6)(b), C.R.S., the Secretary of State’s Campaign and Political Finance Program.

12 *Repeal Rule 1.18 defining “street address” and renumber Rule 1.20:*

13 ~~1.19 “Street Address” has the same meaning as in section 7-90-102(62), C.R.S.~~

14 ~~1.20~~ 1.18 “Subcontractor,” as used in these rules, includes the agent (but not employee) of a
15 paid solicitor who solicits on behalf of the paid solicitor for the benefit of a charitable
16 organization that contracted with the paid solicitor.

17 *Amendments to the title of Rule 5.2 concerning amending financial estimates in initial*
18 *registrations:*

19 5.2 Filing ~~registration~~ amendments TO FINANCIAL ESTIMATES.

1 *Amendments to Rule 5.2.1 concerning amending good faith estimates when organization does*
2 *not have an IRS extension:*

3 5.2.1 ~~If a~~A charitable organization ~~does not~~THAT FAILED TO file a deadline extension
4 with the IRS, ~~a charitable organization that~~BUT reported estimated financial
5 information on its initial registration STATEMENT must amend its registration
6 STATEMENT ~~with~~AND PROVIDE its actual financial information by the 15th day of
7 the fifth calendar month after the close of the fiscal year reported on the initial
8 registration statement.

9 *Amendments to Rule 5.2.2 concerning amending good faith estimates when organization has an*
10 *IRS extension:*

11 5.2.2 ~~If a~~A charitable organization THAT files a deadline extension with the IRS AND
12 REPORTED ESTIMATED FINANCIAL INFORMATION ON ITS INITIAL REGISTRATION
13 STATEMENT, ~~it must file necessary amendments to~~AMEND ITS REGISTRATION
14 STATEMENT AND PROVIDE its ACTUAL financial information by the 15th day of the
15 eighth calendar month after the close of ~~each~~THE fiscal year ~~in which the~~
16 ~~charitable organization solicited in Colorado~~REPORTED IN THE INITIAL
17 REGISTRATION STATEMENT.

18 *Amendments to Rule 5.4 and subrule 5.4.1 concerning fines:*

19 5.4 The Secretary may impose a ~~late fee~~FINE on a charitable organization that fails to timely
20 request an extension.

21 5.4.1 To avoid incurring ~~late fees~~FINES, charitable organizations must:

- 22 (a) Replace initial estimated financial information with actual financial
23 information;
- 24 (b) File a registration renewal; or
- 25 (c) File an extension on or before the filing deadline.

26 *Amendment to Rule 5.5 concerning fines:*

27 5.5 If a charitable organization, at the time of initial registration, reports financial information
28 outside of the most recently completed fiscal year, the Secretary of State will approve the
29 initial registration but the organization must file a renewal or extension request within
30 five days from the initial registration approval. If the organization fails to file a renewal
31 or extension within the five day period, the Secretary will mark the organization's status
32 as "delinquent" and notify the organization that it must update the information or it will
33 be subject to ~~late fees~~FINES and possible suspension OR REVOCATION.

34 *Amendment to Rule 5.7 concerning fines for professional fundraising consultants and paid*
35 *solicitors:*

1 5.7 Professional fundraising consultant or paid solicitor registration is valid for one year. The
2 fundraising consultant or paid solicitor ~~may~~MUST annually ~~renew registration by filing~~
3 FILE a registration renewal by the anniversary date. The anniversary date ~~each year will~~
4 ~~be~~ IS the day and month the initial registration was approved, or the day and month the
5 most recent reinstatement was approved. ~~A professional fundraising consultant or paid~~
6 ~~solicitor who fails~~ FAILURE to renew a registration on or before the anniversary date is
7 ~~subject to a late fee~~ WILL RESULT IN A FINE AND POSSIBLE SUSPENSION OR REVOCATION.

8 *Amendments to Rule 5.9 concerning paid solicitors:*

9 5.9 A paid solicitor must file a ~~completed~~ solicitation notice no later than 15 days before a
10 solicitation campaign starts. Failure to file will ~~subject the paid solicitor to a late fee and~~
11 ~~up to~~ RESULT IN A FINE AND POSSIBLE SUSPENSION OR revocation.

12 *Amendments to Rule 6.1 and its subrules 6.1.1 and 6.1.2 concerning fines for registrants:*

13 6.1 The Secretary will assess a ~~late fee if a charitable organization, professional fundraising~~
14 ~~consultant, or paid solicitor who fails to properly renew or update a registration, file a~~
15 ~~solicitation notice, or file a financial report of a solicitation campaign after being sent at~~
16 ~~least two notices. The Secretary will assess the late fee for an overdue solicitation~~
17 ~~campaign financial report against the paid solicitor and not the charitable organization in~~
18 ~~accordance with section 6-16-114, C.R.S.~~ THE FOLLOWING FINES:

19 6.1.1 The ~~late fee~~ FINE for a charitable organization is \$60 per overdue report.

20 6.1.2 The ~~late fee~~ FINE for a professional fundraising consultant or paid solicitor is \$200
21 per overdue report and applies to an overdue renewal ~~or~~, OVERDUE SOLICITATION
22 NOTICE, AND overdue campaign report.

23 *Repeal Rule 6.1.3:*

24 ~~6.1.3 If a charitable organization, professional fundraising consultant, or paid solicitor~~
25 ~~is assessed a late fee, the late fee is in addition to the regular filing fee.~~

26 *Repeal Rule 6.1.4:*

27 ~~6.1.4 To become compliant, and to avoid additional late fees or other possible penalties,~~
28 ~~a charitable organization, professional fundraising consultant, or paid solicitor~~
29 ~~must file all past due documents in sequence from oldest to newest.~~

30 *Amendments to Rule 8.2 concerning fines and waivers for registrants:*

31 8.2 A charitable organization, professional fundraising consultant, or paid solicitor that ~~incurs~~
32 ~~a late fee for failure~~ FAILS to TIMELY file a document ~~on time~~ must either pay the
33 outstanding ~~late fee~~ FINE or obtain a waiver ~~of late fee~~ as described in Rule ~~6~~, 6.5 before
34 the Secretary of State will approve a registration withdrawal.

35 *Amendments to Rule 9.2.2 concerning fines for organizations not exemption from registration:*

1 9.2.2 ~~If the~~ A NON-EXEMPT organization was not exempt from registration for all fiscal
2 years since its registration was withdrawn, it must pay any applicable late fees for
3 all years during which it was delinquent or suspended and MUST retroactively
4 renew its registration AND PAY ALL APPLICABLE FINES FOR EACH FISCAL YEAR THAT
5 IT WAS DELINQUENT OR SUSPENDED.

6 *Rules 9.3 and 9.4 concerning fines for suspended registrants are consolidated into Rule 9.3 and*
7 *amended:*

8 9.3 REINSTATEMENT REQUIREMENTS

9 9.3.1 ~~Before reinstatement, a~~ A suspended charitable organization, professional
10 fundraising consultant, or paid solicitor must:

11 (A) ~~correct~~ CURE the deficiency for which it was suspended; and,

12 (B) ~~if it was subject to the registration requirements of the CCSA during the~~
13 ~~suspension period, it must retroactively renew its registration and pay~~ PAY
14 ALL applicable late fees FINES for all years during which THAT it was
15 delinquent or suspended AND SUBJECT TO CCSA REGISTRATION
16 REQUIREMENTS.

17 ~~9.4~~9.3.2 ~~Before reinstatement, a~~ A paid solicitor must file solicitation notices and
18 campaign reports and pay all applicable late fees FINES for solicitation campaigns
19 conducted while registration was suspended DURING SUSPENSION.