

Second Regular Session  
Seventieth General Assembly  
STATE OF COLORADO

**PREAMENDED**

*This Unofficial Version Includes Committee  
Amendments Not Yet Adopted on Second Reading*

LLS NO. 16-0647.01 Bart Miller x2173

**HOUSE BILL 16-1129**

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**HOUSE SPONSORSHIP**

**Lawrence and McCann,**

**SENATE SPONSORSHIP**

**Crowder and Heath,**

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**House Committees**

Judiciary  
Appropriations

**Senate Committees**

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**A BILL FOR AN ACT**

101 **CONCERNING MEASURES FOR ENHANCED ENFORCEMENT AGAINST ACTS**  
102 **OF CHARITABLE FRAUD, AND, IN CONNECTION THEREWITH,**  
103 **MAKING AN APPROPRIATION.**

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**Bill Summary**

*(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://www.leg.state.co.us/bills summaries>.)*

**Section 1** of the bill creates enhanced penalties under the "Colorado Consumer Protection Act" for committing acts of charitable fraud involving knowledge or intent under the "Colorado Charitable Solicitations Act". The penalty for each violation is \$10,000 with no cap for a related series of violations.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.  
Dashes through the words indicate deletions from existing statute.*

**Sections 2 and 4** of the bill require:

- ! A statement on applications for registration by a paid solicitor to the secretary of state that neither the paid solicitor nor any officer, director or employee serves on the board of directors of a charitable organization or directs the operations of a charitable organization for which the paid solicitor solicits contributions and that no officer, director, or employee of the paid solicitor's charitable organization clients have a financial interest in the paid solicitor;
- ! Paid solicitors to either have a bond or a savings account, deposit, or certificate of deposit in a financial institution payable to the state of Colorado conditioned upon the performance of the paid solicitor in good faith without fraud or fraudulent representation and without the violation of any provision of the "Colorado Charitable Solicitations Act".

**Section 3** of the bill makes it charitable fraud to misrepresent that a charitable organization for which a paid solicitor solicits has a significant membership of a certain type, such as active police, sheriff, patrol, firefighters, first responders, or veterans. Section 3 of the bill makes a charitable organization also liable with a paid solicitor if the charitable organization knew or should have known that the paid solicitor was engaged in charitable fraud on behalf of the charitable organization.

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

2 **SECTION 1.** In Colorado Revised Statutes, 6-1-112, **add** (1) (f)  
3 as follows:

4 **6-1-112. Civil penalties.** (1) The attorney general or a district  
5 attorney may bring a civil action on behalf of the state to seek the  
6 imposition of civil penalties as follows:

7 (f) ANY PERSON WHO VIOLATES SECTION 6-16-111 (1) (a) TO (1)  
8 (g) SHALL FORFEIT AND PAY TO THE GENERAL FUND OF THE STATE A CIVIL  
9 PENALTY OF UP TO TEN THOUSAND DOLLARS FOR EACH VIOLATION, WITH  
10 NO CAP FOR A RELATED SERIES OF VIOLATIONS.

11 **SECTION 2.** In Colorado Revised Statutes, 6-16-104.6, **amend**  
12 (3) (h) and (3) (i); and **add** (3) (j) and (3.5) as follows:

1           **6-16-104.6. Paid solicitors - annual registration - filing of**  
2 **contracts - fees.** (3) Applications for registration or renewal of  
3 registration shall be submitted on a form prescribed by the secretary of  
4 state, shall be signed under oath, and shall include the following  
5 information:

6           (h) Whether the applicant is registered with or otherwise  
7 authorized by any other state to act as a paid solicitor; ~~and~~

8           (i) Whether the applicant has had such registration or authority  
9 denied, suspended, revoked, or enjoined by any court or other  
10 governmental authority in this state or another state; AND

11           (j) WHETHER THE APPLICANT OR ANY OFFICER, DIRECTOR, OR  
12 EMPLOYEE OF THE APPLICANT SERVES ON THE BOARD OF DIRECTORS OF A  
13 CHARITABLE ORGANIZATION, DIRECTS THE OPERATIONS OF A CHARITABLE  
14 ORGANIZATION, OR OTHERWISE HAS A FINANCIAL INTEREST IN A  
15 CHARITABLE ORGANIZATION FOR WHICH THE APPLICANT SOLICITS  
16 CONTRIBUTIONS. IF THIS RELATIONSHIP EXISTS BETWEEN THE APPLICANT  
17 AND THE CHARITABLE ORGANIZATION, THE APPLICATION MUST INCLUDE  
18 A STATEMENT THAT THE RELATIONSHIP MEETS THE STANDARDS SET FORTH  
19 IN SECTION 7-128-501 (3), C.R.S., REGARDING CONFLICT OF INTEREST  
20 TRANSACTIONS.

21           (3.5) (a) BEFORE ANY PAID SOLICITOR IS REGISTERED, THE  
22 APPLICANT SHALL PROCURE AND FILE WITH THE SECRETARY OF STATE  
23 EVIDENCE OF A SAVINGS ACCOUNT, DEPOSIT, OR CERTIFICATE OF DEPOSIT  
24 MEETING THE REQUIREMENTS OF SECTION 11-35-101, C.R.S., OR A GOOD  
25 AND SUFFICIENT BOND IN THE AMOUNT OF TWENTY-FIVE THOUSAND  
26 DOLLARS ISSUED BY A CORPORATE SURETY DULY LICENSED TO DO  
27 BUSINESS WITHIN THE STATE, APPROVED AS TO FORM BY THE ATTORNEY

1 GENERAL OF THE STATE, AND CONDITIONED THAT THE APPLICANT SHALL  
2 PERFORM IN GOOD FAITH AS A PAID SOLICITOR WITHOUT FRAUD OR  
3 FRAUDULENT REPRESENTATION AND WITHOUT THE VIOLATION OF ANY  
4 PROVISION OF THIS ARTICLE.

5 (b) NO CORPORATE SURETY IS REQUIRED TO MAKE ANY PAYMENT  
6 TO ANY PERSON CLAIMING A BOND ISSUED UNDER THIS SUBSECTION (3.5)  
7 UNTIL A FINAL DETERMINATION OF FRAUD OR FRAUDULENT  
8 REPRESENTATION HAS BEEN MADE BY THE SECRETARY OF STATE OR BY A  
9 COURT OF COMPETENT JURISDICTION.

10 (c) ALL BONDS REQUIRED UNDER THIS SECTION MUST BE RENEWED  
11 ANNUALLY AT THE SAME TIME AS THE BONDHOLDER'S LICENSE IS  
12 RENEWED. RENEWAL OF THE BOND MAY BE DONE THROUGH A  
13 CONTINUATION CERTIFICATE ISSUED BY THE SURETY.

14 **SECTION 3.** In Colorado Revised Statutes, 6-16-111, **amend**  
15 (1.5); and **add** (7) as follows:

16 **6-16-111. Violations.** (1.5) A person commits charitable fraud if  
17 he or she, in the course of or in furtherance of a solicitation, misrepresents  
18 to, misleads, makes false statements to, or uses a name other than the  
19 solicitor's legal name in communicating with a person being solicited in  
20 any manner that would lead a reasonable person to believe that:

21 (a) If the person being solicited makes a contribution, he or she  
22 will receive special benefits or favorable treatment from a police, sheriff,  
23 patrol, firefighting, or other law enforcement agency or department of  
24 government; ~~or~~

25 (b) If the person being solicited fails to make a contribution, he or  
26 she will receive unfavorable treatment from a police, sheriff, patrol,  
27 firefighting, or other law enforcement agency or department of

1 government; OR

2 (c) THE MEMBERSHIP ORGANIZATION FOR WHICH THE PERSON IS  
3 SOLICITING HAS A SIGNIFICANT MEMBERSHIP OF A CERTAIN TYPE,  
4 INCLUDING ACTIVE POLICE, SHERIFF, PATROL, FIREFIGHTERS, FIRST  
5 RESPONDERS, OR VETERANS WHEN THE ORGANIZATION DOES NOT HAVE A  
6 SIGNIFICANT MEMBERSHIP OF THAT TYPE. FOR PURPOSES OF THIS  
7 PARAGRAPH (c), "SIGNIFICANT MEMBERSHIP" MEANS TEN PERCENT OF THE  
8 MEMBERSHIP OF THE ORGANIZATION OR ONE HUNDRED MEMBERS,  
9 WHICHEVER IS LESS. FOR PURPOSES OF THIS PARAGRAPH (c), "MEMBERSHIP  
10 ORGANIZATION" MEANS AN ORGANIZATION THAT IS A TAX-EXEMPT  
11 NONPROFIT ORGANIZATION UNDER 26 U.S.C. SEC. 501 (c) OF THE FEDERAL  
12 "INTERNAL REVENUE CODE OF 1986", AS AMENDED, AND HAS MEMBERS  
13 WHO PAY REGULAR MEMBERSHIP DUES.

14 (7) IF A PAID SOLICITOR COMMITS CHARITABLE FRAUD IN THE  
15 COURSE OF MAKING A SOLICITATION FOR A CHARITABLE ORGANIZATION,  
16 THE CHARITABLE ORGANIZATION SHALL ALSO BE LIABLE FOR ANY  
17 APPLICABLE REMEDIES AND PENALTIES IF THE CHARITABLE ORGANIZATION  
18 KNEW OR SHOULD HAVE KNOWN THAT THE PAID SOLICITOR WAS ENGAGED  
19 IN CHARITABLE FRAUD. THIS SUBSECTION (7) DOES NOT EXTEND PERSONAL  
20 LIABILITY TO BOARD MEMBERS OF A CHARITABLE ORGANIZATION BEYOND  
21 THE PERSONAL LIABILITY ALLOWED BY LAW PRIOR TO THE EFFECTIVE DATE  
22 OF THIS SUBSECTION (7), AS AMENDED.

23 **SECTION 4.** In Colorado Revised Statutes, 11-35-101, **amend**  
24 (1) as follows:

25 **11-35-101. Alternatives to surety bonds permitted -**  
26 **requirements.** (1) The requirement of a surety bond as a condition to  
27 licensure or authority to conduct business or perform duties in this state

1 provided in ~~sections 12-5.5-202 (2) (b)~~ SECTIONS 6-16-104.6, 12-5.5-202  
2 (2) (b), 12-6-111, 12-6-112, 12-6-112.2, 12-6-512, 12-6-513, 12-14-124  
3 (1), 12-59-115 (1), 12-60-509 (2.5) (b), 12-61-907, 33-4-101 (1),  
4 33-12-104 (1), 35-55-104 (1), 37-91-107 (2) and (3), 38-29-119 (2),  
5 39-21-105 (4), 39-27-104 (2) (a), (2) (b), (2) (c), (2) (d), (2) (e), (2.1) (a),  
6 (2.1) (b), (2.1) (c), (2.5) (a), and (2.5) (b), 39-28-105 (1), 42-6-115 (3),  
7 and 42-7-301 (6), C.R.S., may be satisfied by a savings account or deposit  
8 in or a certificate of deposit issued by a state or national bank doing  
9 business in this state or by a savings account or deposit in or a certificate  
10 of deposit issued by a state or federal savings and loan association doing  
11 business in this state. Such savings account, deposit, or certificate of  
12 deposit shall be in the amount specified by statute, if any, and shall be  
13 assigned to the appropriate state agency for the use of the people of the  
14 state of Colorado. The aggregate liability of the bank or savings and loan  
15 association shall in no event exceed the amount of the deposit. For the  
16 purposes of the sections referred to in this section, "bond" includes the  
17 savings account, deposit, or certificate of deposit authorized by this  
18 section.

19 **SECTION 5. Appropriation.** For the 2016-17 state fiscal year,  
20 \$18,952 is appropriated to the department of state for use by the  
21 information technology services division. This appropriation is from the  
22 department of state cash fund created in section 24-21-104 (3) (b), C.R.S.  
23 To implement this act, the division may use this appropriation for  
24 personal services.

25 **SECTION 6. Act subject to petition - effective date -**  
26 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following  
27 the expiration of the ninety-day period after final adjournment of the

1 general assembly (August 10, 2016, if adjournment sine die is on May 11,  
2 2016); except that, if a referendum petition is filed pursuant to section 1  
3 (3) of article V of the state constitution against this act or an item, section,  
4 or part of this act within such period, then the act, item, section, or part  
5 will not take effect unless approved by the people at the general election  
6 to be held in November 2016 and, in such case, will take effect on the  
7 date of the official declaration of the vote thereon by the governor.

8 (2) This act applies to charitable solicitations on or after the  
9 applicable effective date of this act.