



## **Revised Statement of Basis, Purpose, and Specific Statutory Authority**

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

**October 18, 2012**

### **I. Basis and Purpose**

This statement is about amendments to the Colorado Secretary of State rules for the administration of the Colorado Charitable Solicitations Act.<sup>1</sup> The amendments are intended to ensure uniform and proper administration, implementation, and enforcement of Colorado Charitable Solicitations laws.<sup>2</sup> The revisions are also intended to improve the administration of charities and fundraisers in Colorado and to answer questions arising under State Colorado Charitable Solicitations laws as follows:

- Amendments to Rule 1 clarify and establish definitions:
  - New Rule 1.4 (formerly Rules 7.5 and 7.6) is the amended and relocated definition of “Bona fide personal emergency”.
  - New Rule 1.7 defines “Employer Identification Number.”
  - Amendments to Rule 1.9 (formerly Rule 1.7) clarify the meaning of “Form of Applicant’s Business” (CNA).
  - Amendments to Rule 1.14 (formerly Rule 1.12) clarify “Principal Place of Business” to mean street address. A provision for waiving this requirement is added in re-numbered Rule 6.
  - Current Rule 1.13, regarding “Registration Service Provider” is repealed.
  - New Rule 1.15 clarifies that all registrants must designate a “Registered Agent.”
  - New Rule 1.18 clarifies what “State Elections Commission” means in Colorado.
  - New Rule 1.19 clarifies that street address has the same meaning as in section 7-90-102(62), C.R.S.
  
- Amendments to Rule 2 require an Employer Identification Number (EIN) for each user account. Additionally, the amendments clarify that user email addresses are not public records.

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<sup>1</sup> 8 CCR 1505-9.

<sup>2</sup> Article 16, Title 6 of the Colorado Revised Statutes.

- Amendments to Rule 3 provide a timeline for suspended and revoked organizations to submit hearing requests, and allow the Secretary of State more time to prepare for suspension hearings.
- Amendments to Rule 4 allow the Secretary of State flexibility in delivery method of confirmations. Additionally, the amendments clarify the purpose and content of web-based registration certificates. They also clarify that the Secretary may request a copy of the charity's IRS Form 990 and require corrections of errors to Form 990 (per 6-16-104(2)(f) and (5), C.R.S. and IRS Form 990 Instructions).
- Amendments to Rule 5 implement changes made by section 2 of House Bill 12-1236. Specifically, in accordance with revisions to section 6-16-104, C.R.S., if a charity files for an extension with the IRS, the Secretary will automatically grant the charity a three-month extension for filing its initial or annual financial report with the Secretary of State. The amended rule also states when an extension may be filed and when a solicitation notice may be amended. Current Rule 9.4 is amended and relocated to new Rule 5.10; this rule provides deadlines for submitting solicitation campaign reports.
- Current Rule 6, which lays out the schedule for reminders and notices, is repealed. The Secretary of State will continue to send reminders and notices to customers, but the schedule will be posted on the department's website rather than being enumerated in rules.
- Amendments to New Rule 6 (formerly Rule 7) make changes to late fee amounts and state when the Secretary of State will send uncollected late fees to State Collections. The amended rule requires two years of returns for operational, unregistered charities that wish to register, and provides more flexibility for the Secretary to approve waiver requests by making stipulations for administrator or website errors.
- Amendments to New Rule 7 (formerly Rule 8) clarify the consequences of suspension and revocation of a registration and make minor clarifications to how the suspension and revocation will work. Current Rule 8.3 is relocated to new Rule 5.10; this rule provides deadlines for submitting solicitation campaign reports.
- Amendments to New Rule 8 (formerly Rule 9) codify internal administrative procedures regarding withdrawals.
- Amendments to New Rule 9 (formerly Rule 10) clarify the reinstatement process and what information a charity must provide to be reinstated.

- Current Rule 11 is repealed because the current language was incorporated into new Rule 7.1. Subsequent rules are renumbered accordingly.
- Amendments to New Rule 13 (formerly Rule 15) clarify that paid solicitor disclosure requirements also apply to subcontractors.
- Other changes to rules not specifically listed are entirely non-substantive. Some words and phrases are changed to simplify or clarify, but the meaning is not intended to be altered unless as described above. Cross-references in rules are also corrected or updated. Renumbering the rules is necessary for consistency with Department rulemaking format/style.

## **II. Rulemaking Authority**

The statutory and constitutional authority is as follows:

1. Section 6-16-104(3), C.R.S., (2012) which authorizes the Secretary of State to “promulgate rules concerning the acceptance of a uniform multistate registration statement, such as a unified registration statement, in lieu of the registration statement described in subsection (2) of this section. As soon as practicable, the secretary of state shall take steps to cooperate in a joint state and federal electronic filing project involving state charity offices and the internal revenue service to enable and promote electronic filing of uniform multistate registration statements and federal annual information returns.”
2. Section 6-16-110.5(3), C.R.S., (2012), which authorizes the Secretary of State “to promulgate rules as needed for the effective implementation of this section, including but not limited to:
  - (a) Providing for the extension of filing deadlines;
  - (b) Providing for the online availability of forms required to be filed pursuant to sections 6-16-104 to 6-16-104.6;
  - (c) Providing for the electronic filing of required forms, including the acceptance of electronic signatures;
  - (d) Mandating electronic filing and providing, in the secretary of state's discretion, for exceptions to mandatory electronic filing; and
  - (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.”

3. Section 6-16-111(6)(b), C.R.S., (2012), that requires the Secretary of State to “promulgate rules to provide for expedited deadlines to govern [hearing proceedings concerning denial, suspension, or revocation of registration]...”.
4. Section 6-16-114, C.R.S., (2012), that requires the Secretary of State to promulgate rules to establish a fine or late filing fee amount.