

**Second Regular Session
Seventy-third General Assembly
STATE OF COLORADO**

REREVISÉD

*This Version Includes All Amendments
Adopted in the Second House*

LLS NO. 22-0446.01 Jery Payne x2157

SENATE BILL 22-034

SENATE SPONSORSHIP

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Business, Labor, & Technology
Appropriations

House Committees

Business Affairs & Labor
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A BILL FOR AN ACT

101 **CONCERNING MEASURES TO COUNTERACT THE FILING OF FRAUDULENT**
102 **BUSINESS DOCUMENTS WITH THE SECRETARY OF STATE.**

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://leg.colorado.gov>.)

Under current law, a business entity submits to the secretary of state for online filing documents that concern the creation, organization, and operations of the entity. By submitting a document, an individual affirms under penalty of perjury that the individual is authorized to file the document, the facts in the document are true, and the document otherwise complies with the secretary of state's filing requirements. The

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

HOUSE
3rd Reading Unamended
April 8, 2022

HOUSE
Amended 2nd Reading
April 7, 2022

HOUSE
Amended 2nd Reading
March 25, 2022

SENATE
3rd Reading Unamended
February 17, 2022

SENATE
Amended 2nd Reading
February 16, 2022

secretary of state files the document in an online database as a ministerial act and does not independently verify whether the document is accurate.

The bill creates a complaint process for a person whose business identity or personal identifying information has been used in the filing of these documents with the secretary of state without authority or for fraudulent activity. If a complaint is submitted with the secretary of state, the secretary may forward the complaint to the attorney general for further investigation. The attorney general may investigate the complaint and refer the complaint to an administrative law judge.

If an administrative law judge determines that an entity has been created fraudulently or without authorization, the secretary of state will:

- Mark the business record with a notice that the entity is fraudulent or unauthorized;
- Redact each address that was used without authorization from the entity's filing and from any other relevant filings; and
- Disable additional filing functionality on the entity's records.

If an administrative law judge determines that an unauthorized filing was made for a legitimate entity, the secretary of state will:

- Mark each unauthorized filing for the entity to notify the public that the filing is unauthorized;
- Redact from the entity's filing and from the relevant filings each address and name that was used without authorization; and
- Mark the business record on the entity's filing to notify the public that the entity has been the victim of fraudulent or unauthorized acts.

If a person alleged to have committed fraud or unauthorized acts fails to respond to the complaint, the allegations are deemed conceded, and the secretary of state will take the appropriate steps listed above in the same manner as if the finding had been made by an administrative law judge.

Additionally, the bill states that fraudulent filings are unfair or deceptive trade practices under the "Colorado Consumer Protection Act" and as such are subject to enforcement by the attorney general's office.

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

2 **SECTION 1.** In Colorado Revised Statutes, **add** 7-90-314 as
3 follows:

4 **7-90-314. Fraudulent filings - complaint - review - referral to**

1 **attorney general - referral to administrative law judge - marking**
2 **filing as fraudulent - deceptive trade practice. (1) Fraudulent filings.**

3 THE FOLLOWING ACTIONS ARE PROHIBITED:

4 (a) INCLUDING THE NAME OF A PERSON ON A DOCUMENT FILED IN
5 THE SECRETARY OF STATE'S OFFICE UNDER THIS PART 3 WITHOUT THE
6 NAMED PERSON'S WRITTEN CONSENT IF THE PERSON IS INCLUDED IN THE
7 FILING AS:

8 (I) THE REGISTERED AGENT;

9 (II) THE INDIVIDUAL CAUSING THE DOCUMENT TO BE DELIVERED
10 TO THE SECRETARY OF STATE'S OFFICE FOR FILING;

11 (III) THE PERSON INCORPORATING, FORMING, OR ORGANIZING AN
12 ENTITY; OR

13 (IV) ANY OTHER PERSON REQUIRED UNDER THIS TITLE 7 TO BE
14 IDENTIFIED IN A DOCUMENT FILED IN THE SECRETARY OF STATE'S OFFICE;

15 (b) INCLUDING AN ADDRESS IN A DOCUMENT FILED IN THE
16 SECRETARY OF STATE'S OFFICE UNDER THIS PART 3 WITHOUT THE CONSENT
17 OF THE OWNER OF OR OCCUPANT OF THE INCLUDED ADDRESS; AND

18 (c) DELIVERING A DOCUMENT REGARDING AN ENTITY TO THE
19 SECRETARY OF STATE'S OFFICE IF THE INDIVIDUAL WHO MAKES THE
20 DELIVERY LACKS THE NECESSARY WRITTEN CONSENT OR AUTHORITY TO
21 DO SO.

22 (2) **Complaint.** A PERSON THAT IS NAMED IN OR OTHERWISE
23 AFFECTED BY THE FILING OF A DOCUMENT UNDER THIS PART 3 MAY SUBMIT
24 A COMPLAINT TO THE SECRETARY OF STATE, ON A FORM PRESCRIBED BY
25 THE SECRETARY OF STATE, ALLEGING THAT THE FILING WAS MADE IN
26 VIOLATION OF SUBSECTION (1) OF THIS SECTION. THE COMPLAINT MUST
27 INCLUDE AT LEAST THE FOLLOWING INFORMATION:

- 1 (a) A DESCRIPTION OF THE ALLEGED VIOLATION;
- 2 (b) THE NAME; STREET ADDRESS; TELEPHONE NUMBER; E-MAIL
3 ADDRESS, IF AVAILABLE; AND ANY ADDITIONAL CONTACT INFORMATION
4 OF THE PERSON MAKING THE COMPLAINT;
- 5 (c) THE NAME; STREET ADDRESS; TELEPHONE NUMBER; E-MAIL
6 ADDRESS, IF AVAILABLE; AND ANY ADDITIONAL CONTACT INFORMATION
7 OF ANY THIRD PARTY AUTHORIZED TO SUBMIT THE COMPLAINT BY AND ON
8 BEHALF OF THE PERSON THAT IS NAMED IN OR AFFECTED BY THE FILING;
- 9 (d) THE UNIQUE IDENTIFICATION NUMBER ASSIGNED BY THE
10 SECRETARY OF STATE TO EACH FILED DOCUMENT THAT IS ALLEGED TO
11 HAVE BEEN FILED IN VIOLATION OF SUBSECTION (1) OF THIS SECTION;
- 12 (e) THE UNIQUE IDENTIFICATION NUMBER ASSIGNED BY THE
13 SECRETARY OF STATE TO EACH ENTITY ASSOCIATED WITH BOTH THE
14 COMPLAINT AND THE FILING;
- 15 (f) INFORMATION, IF KNOWN TO THE PERSON MAKING THE
16 COMPLAINT, IDENTIFYING EACH PERSON INVOLVED IN THE FILING,
17 INCLUDING NAMES, STREET ADDRESSES, TELEPHONE NUMBERS, WEBSITES,
18 AND E-MAIL ADDRESSES;
- 19 (g) INFORMATION, IF KNOWN, IDENTIFYING THE NATURE OF ANY
20 BUSINESS OR PERSONAL RELATIONSHIP BETWEEN THE PERSON SUBMITTING
21 THE COMPLAINT AND EACH PERSON INVOLVED IN THE ALLEGED VIOLATION;
- 22 (h) A STATEMENT BY THE PERSON SUBMITTING THE COMPLAINT,
23 UNDER PENALTY OF PERJURY PURSUANT TO SECTION 7-90-301.5, THAT THE
24 PERSON BELIEVES IN GOOD FAITH THAT THE FACTS STATED IN THE
25 COMPLAINT ARE TRUE AND THAT THE COMPLAINT COMPLIES WITH THE
26 REQUIREMENTS OF THIS PART 3, THE CONSTITUENT DOCUMENTS, AND THE
27 ORGANIC STATUTES; AND

1 (i) ANY ADDITIONAL INFORMATION THAT THE PERSON BELIEVES
2 MAY ASSIST IN AN INVESTIGATION OF THE COMPLAINT.

3 (3) **Review - secretary of state.** (a) UPON RECEIPT OF A
4 COMPLAINT SUBMITTED PURSUANT TO SUBSECTION (2) OF THIS SECTION,
5 THE SECRETARY OF STATE SHALL REVIEW THE COMPLAINT AND EVALUATE
6 WHETHER THE COMPLAINT INDICATES A VIOLATION OF SUBSECTION (1) OF
7 THIS SECTION AND SATISFIES THE REQUIREMENTS OF SUBSECTION (2) OF
8 THIS SECTION. IF SO, THE SECRETARY OF STATE, USING ELECTRONIC
9 MEANS, SHALL REFER THE COMPLAINT TO THE ATTORNEY GENERAL FOR
10 REVIEW AND INVESTIGATION UNDER THE "COLORADO CONSUMER
11 PROTECTION ACT", ARTICLE 1 OF TITLE 6.

12 (b) IF THE SECRETARY OF STATE DETERMINES THAT THE
13 INFORMATION PROVIDED IN A COMPLAINT DOES NOT INDICATE A
14 VIOLATION OF SUBSECTION (1) OF THIS SECTION OR DOES NOT SATISFY THE
15 REQUIREMENTS OF SUBSECTION (2) OF THIS SECTION, THE SECRETARY OF
16 STATE SHALL NOTIFY THE PERSON THAT SUBMITTED THE COMPLAINT OF
17 THE FACT AND PROVIDE AN EXPLANATION OF ANY DEFICIENCIES IN THE
18 COMPLAINT.

19 (c) THE SECRETARY OF STATE MAY ASK A PERSON WHO SUBMITS
20 A COMPLAINT TO SUBMIT ADDITIONAL INFORMATION CONCERNING:

21 (I) THE ALLEGED VIOLATION OF SUBSECTION (1) OF THIS SECTION;
22 OR

23 (II) THE PERSON'S FAILURE TO SUBMIT THE INFORMATION
24 REQUIRED BY SUBSECTION (2) OF THIS SECTION.

25 (d) THE SECRETARY OF STATE SHALL NOTIFY THE PERSON WHO
26 SUBMITTED A COMPLAINT OF THE OUTCOME OF THE SECRETARY OF STATE'S
27 REVIEW OF THE COMPLAINT.

1 (e) IF THE SECRETARY OF STATE REJECTS A COMPLAINT FOR
2 FAILURE TO COMPLY WITH SUBSECTION (1) OR (2) OF THIS SECTION, THE
3 COMPLAINT MAY BE RESUBMITTED.

4 (4) **Review - attorney general - hearing and findings -**
5 **administrative law judge.** (a) UPON RECEIPT OF A COMPLAINT REFERRED
6 BY THE SECRETARY OF STATE IN ACCORDANCE WITH SUBSECTION (3)(a) OF
7 THIS SECTION, THE ATTORNEY GENERAL SHALL REVIEW THE COMPLAINT
8 AND DETERMINE WHETHER THE COMPLAINT SHOULD BE INVESTIGATED. IF
9 THE ATTORNEY GENERAL DETERMINES THAT THE COMPLAINT SHOULD BE
10 INVESTIGATED, THE ATTORNEY GENERAL:

11 (I) SHALL MAIL A WRITTEN NOTICE AND DEMAND TO THE STREET
12 ADDRESS OR MAILING ADDRESS, IF DIFFERENT FROM THE STREET ADDRESS,
13 AS WELL AS TO THE E-MAIL ADDRESS, IF AVAILABLE, OF THE REGISTERED
14 AGENT OF RECORD LISTED IN THE SECRETARY OF STATE'S ONLINE FILING
15 SYSTEM FOR THE ENTITY AT ISSUE, AND, IF A TELEPHONE NUMBER IS
16 AVAILABLE, THE ATTORNEY GENERAL SHALL CONTACT THE REGISTERED
17 AGENT BY TELEPHONE; AND

18 (II) MAY PROVIDE WRITTEN OR VERBAL NOTICE AND DEMAND TO
19 ANY OTHER POINT OF CONTACT THAT THE ATTORNEY GENERAL
20 DETERMINES THROUGH INVESTIGATION TO BE A MEANS BY WHICH TO
21 REACH THE ENTITY AT ISSUE.

22 (b) THE ATTORNEY GENERAL'S NOTICE AND DEMAND MUST NOTIFY
23 THE ENTITY AT ISSUE OF THE ALLEGATIONS IN THE COMPLAINT AND
24 DEMAND THAT THE ENTITY RESPOND TO THE COMPLAINT BY A DATE
25 CERTAIN, WHICH RESPONSE MUST INCLUDE THE INFORMATION DESCRIBED
26 IN SUBSECTION (4)(c) OF THIS SECTION.

27 (c) A PERSON TO WHOM THE ATTORNEY GENERAL SENDS A NOTICE

1 AND DEMAND, OR THE PERSON'S AGENT, SHALL RESPOND TO THE NOTICE
2 AND DEMAND WITHIN TWENTY-ONE DAYS AFTER THE WRITTEN NOTICE
3 AND DEMAND IS MAILED. THE RESPONSE MUST INCLUDE THE FOLLOWING
4 INFORMATION:

5 (I) THE NAME; STREET ADDRESS; TELEPHONE NUMBER; E-MAIL
6 ADDRESS, IF AVAILABLE; AND ANY ADDITIONAL CONTACT INFORMATION
7 OF THE PERSON RESPONDING TO THE NOTICE AND DEMAND AND, IF THE
8 RESPONDING PERSON IS AN AGENT OF THE PERSON TO WHOM THE NOTICE
9 AND DEMAND IS SENT, ANY SUPPORTING DOCUMENTS, INCLUDING ANY
10 REGISTERED AGENT INFORMATION, THAT ESTABLISH THE AGENT'S
11 AUTHORITY TO ACT ON THE PERSON'S BEHALF;

12 (II) THE NAME OF THE ENTITY AT ISSUE;

13 (III) INFORMATION, IF KNOWN, IDENTIFYING EACH PERSON
14 INVOLVED IN THE ALLEGED VIOLATION OF SUBSECTION (1) OF THIS
15 SECTION, INCLUDING NAMES, STREET ADDRESSES, TELEPHONE NUMBERS,
16 WEBSITES, AND E-MAIL ADDRESSES;

17 (IV) INFORMATION IDENTIFYING THE NATURE OF ANY BUSINESS OR
18 PERSONAL RELATIONSHIP BETWEEN THE PERSON THAT SUBMITTED THE
19 COMPLAINT AND EACH PERSON INVOLVED IN THE ALLEGED VIOLATION OF
20 SUBSECTION (1) OF THIS SECTION; EXCEPT THAT THIS SUBSECTION
21 (4)(c)(IV) DOES NOT REQUIRE THE DISCLOSURE OF PRIVILEGED
22 INFORMATION;

23 (V) A STATEMENT BY THE ENTITY AT ISSUE RESPONDING TO THE
24 NOTICE AND DEMAND THAT AFFIRMS OR DENIES HAVING KNOWLEDGE OF
25 OR INFORMATION ABOUT THE ALLEGED VIOLATION OF SUBSECTION (1) OF
26 THIS SECTION;

27 (VI) MATERIAL EVIDENCE OF WRITTEN CONSENT TO USE THE NAME

1 OR ADDRESS IN THE FILING AT ISSUE;

2 (VII) A STATEMENT BY THE PERSON RESPONDING TO THE NOTICE
3 AND DEMAND, UNDER PENALTY OF PERJURY PURSUANT TO SECTION
4 7-90-301.5, THAT THE PERSON BELIEVES IN GOOD FAITH THAT THE FACTS
5 STATED IN THE RESPONSE ARE TRUE AND THAT THE RESPONSE COMPLIES
6 WITH THE REQUIREMENTS OF THIS PART 3, THE CONSTITUENT DOCUMENTS,
7 AND THE ORGANIC STATUTES; AND

8 (VIII) ANY ADDITIONAL INFORMATION THAT THE PERSON
9 RESPONDING TO THE NOTICE AND DEMAND BELIEVES MAY BE USEFUL IN AN
10 INVESTIGATION OF THE COMPLAINT.

11 (d) ALL INFORMATION RECEIVED BY THE ATTORNEY GENERAL
12 UNDER THIS SECTION IS GOVERNED BY SECTION 6-1-111 (2).

13 (e) IF, WITHIN TWENTY-ONE DAYS AFTER MAILING A NOTICE AND
14 DEMAND, THE ATTORNEY GENERAL DOES NOT RECEIVE A RESPONSE IN
15 WRITING OR OTHERWISE, THE ATTORNEY GENERAL SHALL SEND A SECOND
16 NOTICE AND DEMAND, CONSISTENT WITH THE REQUIREMENTS OF THIS
17 SUBSECTION (4), AND ALLOW TWENTY-ONE DAYS FOR A RESPONSE, WHICH
18 MUST COMPLY WITH SUBSECTION (4)(c) OF THIS SECTION.

19 (f) IF THE ATTORNEY GENERAL DOES NOT RECEIVE A RESPONSE
20 WITHIN TWENTY-ONE DAYS AFTER MAILING A SECOND NOTICE AND
21 DEMAND AS DESCRIBED IN SUBSECTION (4)(e) OF THIS SECTION, EACH
22 ALLEGATION IN THE NOTICE AND DEMAND IS DEEMED CONCEDED BY THE
23 PERSON THAT DID NOT RESPOND, AND THE ATTORNEY GENERAL MAY
24 CERTIFY THAT FACT TO THE SECRETARY OF STATE. UPON RECEIVING THE
25 CERTIFICATION, THE SECRETARY OF STATE SHALL TAKE THE APPROPRIATE
26 REMEDIAL ACTION UNDER SUBSECTIONS (4)(g)(V) AND (4)(g)(VI) OF THIS
27 SECTION BASED ON THE FACTS CONCEDED TO IN THE NOTICE AND DEMAND.

1 (g) (I) A REQUEST IS TIMELY IF RECEIPT OF A RESPONSE AND A
2 REQUEST FOR A HEARING ON ANY ISSUE RAISED BY THE NOTICE AND
3 DEMAND IS MADE WITHIN TWENTY-ONE DAYS AFTER THE NOTICE AND
4 DEMAND IS MAILED. IF A PERSON TIMELY REQUESTS A HEARING, THE
5 ATTORNEY GENERAL MAY REFER THE COMPLAINT TO AN ADMINISTRATIVE
6 LAW JUDGE.

7 (II) IF THE ATTORNEY GENERAL REFERS THE COMPLAINT TO AN
8 ADMINISTRATIVE LAW JUDGE, THE ATTORNEY GENERAL SHALL PROSECUTE
9 THE MATTER BEFORE THE ADMINISTRATIVE LAW JUDGE. IF THE ATTORNEY
10 GENERAL DOES NOT REFER THE COMPLAINT TO AN ADMINISTRATIVE LAW
11 JUDGE WITHIN ONE HUNDRED EIGHTY DAYS AFTER THE ATTORNEY
12 GENERAL RECEIVES THE RESPONSE TO THE NOTICE AND DEMAND, THE
13 ATTORNEY GENERAL IS DEEMED TO HAVE DETERMINED TO NOT PROCEED
14 WITH PROSECUTING THE COMPLAINT.

15 (III) THE ADMINISTRATIVE LAW JUDGE SHALL HOLD A HEARING
16 WITHIN SIXTY DAYS AFTER THE ATTORNEY GENERAL REFERS A COMPLAINT
17 AND SHALL RENDER A DECISION WITHIN FIFTEEN DAYS AFTER THE
18 HEARING. THE ADMINISTRATIVE LAW JUDGE MAY GRANT THE ATTORNEY
19 GENERAL OR THE PERSON REQUESTING A HEARING AN EXTENSION OF UP TO
20 THIRTY DAYS UPON A MOTION. THE ADMINISTRATIVE LAW JUDGE MAY
21 GRANT THE ATTORNEY GENERAL OR THE PERSON REQUESTING A HEARING
22 AN EXTENSION OF LONGER THAN THIRTY DAYS UPON A SHOWING OF GOOD
23 CAUSE.

24 (IV) IF THE ADMINISTRATIVE LAW JUDGE FINDS THAT SUBSECTION
25 (1) OF THIS SECTION HAS BEEN VIOLATED, THE ADMINISTRATIVE LAW
26 JUDGE SHALL MAKE AN ADDITIONAL FINDING AS TO WHETHER:

27 (A) AN ENTITY WAS CREATED WITHOUT AUTHORIZATION OR FOR

1 FRAUDULENT PURPOSES; OR

2 (B) AN UNAUTHORIZED FILING WAS MADE ==

3 (V) IF THE ADMINISTRATIVE LAW JUDGE FINDS THAT, OR IF A
4 CONCEDED NOTICE AND DEMAND SETS FORTH THAT, AN ENTITY WAS
5 CREATED WITHOUT AUTHORIZATION OR FOR FRAUDULENT PURPOSES, THE
6 ATTORNEY GENERAL SHALL NOTIFY THE SECRETARY OF STATE, WHO
7 SHALL:

8 (A) MARK THE BUSINESS RECORD WITH A NOTICE THAT THE ENTITY
9 IS UNAUTHORIZED OR FRAUDULENT;

10 (B) REDACT EACH ADDRESS AND NAME THAT WAS USED WITHOUT
11 AUTHORIZATION FROM THE ENTITY'S FILING AND FROM ANY OTHER
12 RELEVANT FILINGS; AND

13 (C) DISABLE ADDITIONAL FILING FUNCTIONALITY ON THE ENTITY'S
14 RECORDS.

15 (VI) IF THE ADMINISTRATIVE LAW JUDGE FINDS THAT, OR IF A
16 CONCEDED NOTICE AND DEMAND SETS FORTH THAT, AN UNAUTHORIZED
17 FILING WAS MADE FOR A LEGITIMATE ENTITY, THE ATTORNEY GENERAL
18 SHALL NOTIFY THE SECRETARY OF STATE, WHO SHALL:

19 (A) MARK EACH UNAUTHORIZED FILING FOR THE ENTITY TO
20 NOTIFY THE PUBLIC THAT THE FILING IS UNAUTHORIZED;

21 (B) REDACT EACH ADDRESS AND NAME THAT WAS USED WITHOUT
22 AUTHORIZATION FROM THE ENTITY'S FILING AND FROM THE RELEVANT
23 FILINGS; AND

24 (C) MARK THE BUSINESS RECORD == TO NOTIFY THE PUBLIC THAT
25 THE ENTITY HAS BEEN THE VICTIM OF FRAUDULENT OR UNAUTHORIZED
26 ACTS.

27 (VII) THE DECISION OF THE ADMINISTRATIVE LAW JUDGE IS FINAL

1 AND SUBJECT TO REVIEW BY THE COURT OF APPEALS UNDER SECTION
2 24-4-106 (11). THE SECRETARY OF STATE AND THE ADMINISTRATIVE LAW
3 JUDGE ARE NOT NECESSARY PARTIES TO THE REVIEW.

4 (h) THE ATTORNEY GENERAL SHALL COMMUNICATE THE FINDING
5 MADE BY THE ADMINISTRATIVE LAW JUDGE IN ACCORDANCE WITH
6 SUBSECTION (4)(g)(IV) OF THIS SECTION TO:

7 (I) THE PERSON WHO SUBMITTED THE COMPLAINT, USING THE
8 E-MAIL ADDRESS PROVIDED ON THE COMPLAINT FORM OR, IF AN E-MAIL
9 ADDRESS WAS NOT PROVIDED, USING THE MAILING ADDRESS PROVIDED ON
10 THE COMPLAINT FORM; AND

11 (II) EACH ENTITY AT ISSUE, USING REGISTERED MAIL ADDRESSED
12 TO THE STREET ADDRESS OR MAILING ADDRESS, IF DIFFERENT, OF THE
13 REGISTERED AGENT OF RECORD FOR THE ENTITY LISTED IN THE SECRETARY
14 OF STATE'S ONLINE FILING SYSTEM AND TO THE E-MAIL ADDRESS LISTED,
15 IF PROVIDED; AND

16 (III) THE SECRETARY OF STATE.

17 (5) A VIOLATION OF SUBSECTION (1) OF THIS SECTION IS A
18 DECEPTIVE TRADE PRACTICE UNDER SECTION 6-1-105 (1)(ooo) AND IS
19 SUBJECT TO ENFORCEMENT BY THE DEPARTMENT OF LAW IN ADDITION TO
20 THE ENFORCEMENT DESCRIBED IN THIS SECTION. A DETERMINATION BY
21 THE ADMINISTRATIVE LAW JUDGE AS PROVIDED BY SUBSECTION (4)(g)(IV)
22 OF THIS SECTION OR A FAILURE TO TIMELY RESPOND TO A NOTICE AND
23 DEMAND AS PROVIDED BY SUBSECTION (4)(f) OF THIS SECTION
24 CONSTITUTES A PRIMA FACIE SHOWING THAT SUBSECTION (1) OF THIS
25 SECTION WAS VIOLATED.

26 **SECTION 2.** In Colorado Revised Statutes, **add 7-90-316** as
27 **follows:**

1 **7-90-316. Working group.** (1) THE WORKING GROUP TO STUDY
2 MEASURES TO COUNTERACT FRAUDULENT FILINGS IN THE ONLINE BUSINESS
3 FILING SYSTEM, REFERRED TO AS THE "WORKING GROUP" IN THIS SECTION,
4 IS HEREBY CREATED TO STUDY POTENTIAL MEASURES TO COUNTERACT
5 AND PREVENT FRAUDULENT FILINGS IN THE ONLINE BUSINESS FILING
6 SYSTEM. THE SECRETARY OF STATE'S DESIGNEE SHALL CONVENE THE
7 WORKING GROUP BY SEPTEMBER 15, 2023.

8 (2) (a) THE WORKING GROUP CONSISTS OF:

9 (I) THE SECRETARY OF STATE'S DESIGNEE;

10 (II) TWO REPRESENTATIVES OF THE SECRETARY OF STATE'S OFFICE
11 WITH FAMILIARITY WITH THE ONLINE BUSINESS FILING SYSTEM, APPOINTED
12 BY THE SECRETARY OF STATE;

13 (III) A REPRESENTATIVE FROM THE ATTORNEY GENERAL'S OFFICE,
14 APPOINTED BY THE ATTORNEY GENERAL;

15 (IV) A REPRESENTATIVE FROM THE COLORADO BUREAU OF
16 INVESTIGATION, APPOINTED BY THE EXECUTIVE DIRECTOR OF THE
17 DEPARTMENT OF PUBLIC SAFETY;

18 (V) A REPRESENTATIVE OF THE DEPARTMENT OF HOMELAND
19 SECURITY, APPOINTED BY THE SPEAKER OF THE COLORADO HOUSE OF
20 REPRESENTATIVES;

21 (VI) TWO REPRESENTATIVES FROM STATE OR LOCAL BUSINESS
22 ASSOCIATIONS OR CHAMBERS OF COMMERCE, APPOINTED BY THE
23 PRESIDENT OF THE COLORADO SENATE;

24 (VII) A REPRESENTATIVE OF AN ECONOMIC DEVELOPMENT
25 ORGANIZATION, APPOINTED BY THE SPEAKER OF THE COLORADO HOUSE OF
26 REPRESENTATIVES;

27 (VIII) A REPRESENTATIVE OF THE COLORADO BAR ASSOCIATION

1 WITH EXPERTISE IN BUSINESS LAW, APPOINTED BY THE COLORADO BAR
2 ASSOCIATION; AND

3 (IX) A MEMBER OF THE PUBLIC WHO IS A BUSINESS OWNER,
4 PREFERABLY WHO HAS BEEN THE VICTIM OF A FRAUDULENT BUSINESS
5 FILING, APPOINTED BY THE SECRETARY OF STATE.

6 (b) THE SECRETARY OF STATE DESIGNEE MAY ALSO INVITE
7 ADDITIONAL REPRESENTATIVES TO ATTEND WORKING GROUP MEETINGS
8 AND PARTICIPATE AS NONVOTING MEMBERS.

9

10 SECTION 3. In Colorado Revised Statutes, 6-1-105, add
11 (1)(ooo) as follows:

12 6-1-105. Unfair or deceptive trade practices. (1) A person
13 engages in a deceptive trade practice when, in the course of the person's
14 business, vocation, or occupation, the person:

15 (ooo) VIOLATES SECTION 7-90-314 (1).

16 SECTION 4. Act subject to petition - effective date -
17 applicability. (1) This act takes effect February 1, 2023; except that, if
18 a referendum petition is filed pursuant to section 1 (3) of article V of the
19 state constitution against this act or an item, section, or part of this act
20 within the ninety-day period after final adjournment of the general
21 assembly, then the act, item, section, or part will not take effect unless
22 approved by the people at the general election to be held in November
23 2022 and, in such case, will take effect February 1, 2023, or on the date
24 of the official declaration of the vote thereon by the governor, whichever
25 is later.

26 (2) This act applies to complaints submitted and offenses
27 committed on or after the applicable effective date of this act.