

**First Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO**

PREAMENDED

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

LLS NO. 23-0204.01 Yelana Love x2295

SENATE BILL 23-037

SENATE SPONSORSHIP

Cutter, Bridges, Buckner, Fenberg, Fields, Gonzales, Kolker, Moreno, Priola, Rodriguez,
Winter F.

HOUSE SPONSORSHIP

Jodeh and Bradfield,

Senate Committees

State, Veterans, & Military Affairs

House Committees

State, Civic, Military, & Veterans Affairs

A BILL FOR AN ACT

101 **CONCERNING REQUIREMENTS FOR SOLICITATIONS RELATED TO THE**
102 **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>.)

The bill requires a person who solicits a fee for filing a document with, or retrieving a public record from, the secretary of state to include specific disclosure language in the solicitation. The person must also include information on where the document can be filed directly with the secretary of state, or where the public record can be retrieved, and the name and physical address of the person who is soliciting.

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

SENATE
3rd Reading Unamended
February 8, 2023

SENATE
Amended 2nd Reading
February 7, 2023

The bill also prohibits the use of any form, deadline dates, or other language that makes the document used for solicitation appear to be issued by a state agency or local government or that appears to impose a legal duty on the individual being solicited.

Violation of these requirements is an unfair or deceptive trade practice.

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

2 **SECTION 1.** In Colorado Revised Statutes, 6-1-105, **add**
3 (1)(uuu) as follows:

4 **6-1-105. Unfair or deceptive trade practices.** (1) A person
5 engages in a deceptive trade practice when, in the course of the person's
6 business, vocation, or occupation, the person:

7 (uuu) VIOLATES SECTION 6-1-733.

8 **SECTION 2.** In Colorado Revised Statutes, **add** 6-1-733 as
9 follows:

10 **6-1-733. Solicitations to file a secretary of state document or**
11 **retrieve a copy of a public record for a fee - requirements - definition.**

12 (1) AS USED IN THIS SECTION, "SOLICIT" OR "SOLICITATION" MEANS TO
13 DIRECTLY ADVERTISE TO A PERSON WITH A FORM OR NOTICE THAT COULD
14 REASONABLY BE CONSIDERED A BILL, INVOICE, OR COMPLIANCE
15 OBLIGATION BUT THAT IS ACTUALLY AN OFFER TO SELL TO A PERSON
16 GOODS OR SERVICES THAT THE PERSON DID NOT REQUEST. "SOLICIT" AND
17 "SOLICITATION" DO NOT INCLUDE:

18 (a) A REQUEST FOR BONA FIDE SERVICES THAT IS INITIATED BY A
19 CONSUMER; OR

20 (b) ADVERTISING OR MARKETING TO A PERSON WITH WHOM THE
21 SOLICITOR HAS A BONA FIDE, PREEXISTING BUSINESS RELATIONSHIP.

22 (2) A PERSON WHO, IN THE COURSE OF THE PERSON'S BUSINESS,

1 VOCATION, OR OCCUPATION, SOLICITS A FEE FOR FILING A DOCUMENT
2 WITH, OR RETRIEVING A COPY OF A PUBLIC RECORD FROM, THE SECRETARY
3 OF STATE SHALL:

4 (a) STATE IN THE SOLICITATION AND IN THE SAME LANGUAGE AS
5 THE SOLICITATION: "THIS IS AN ADVERTISEMENT. THIS OFFER IS NOT BEING
6 MADE BY, OR ON BEHALF OF, ANY GOVERNMENT AGENCY. YOU ARE NOT
7 REQUIRED TO MAKE ANY PAYMENT OR TAKE ANY OTHER ACTION IN
8 RESPONSE TO THIS OFFER." THIS STATEMENT MUST BE AT THE TOP OF A
9 PHYSICAL DOCUMENT IN AT LEAST TWENTY-FOUR-POINT TYPE AND AT THE
10 BEGINNING OF AN ELECTRONIC COMMUNICATION.

11 (b) INCLUDE IN THE SOLICITATION:

12 (I) INFORMATION ON WHERE THE PERSON CAN FILE A DOCUMENT
13 DIRECTLY WITH THE SECRETARY OF STATE OR RETRIEVE A COPY OF A
14 PUBLIC RECORD; AND

15 (II) THE NAME AND PHYSICAL ADDRESS OF THE PERSON SOLICITING
16 THE FEE.

17 (3) THE DOCUMENT USED FOR A SOLICITATION MUST NOT BE IN A
18 FORM OR USE DEADLINE DATES OR OTHER LANGUAGE THAT MAKES THE
19 DOCUMENT APPEAR TO BE A DOCUMENT ISSUED BY A STATE AGENCY OR
20 LOCAL GOVERNMENT OR THAT APPEARS TO IMPOSE A LEGAL DUTY ON THE
21 PERSON BEING SOLICITED.

22 (4) A PERSON WHO VIOLATES THIS SECTION ENGAGES IN A
23 DECEPTIVE TRADE PRACTICE.

24 **SECTION 3. Act subject to petition - effective date -**
25 **applicability.** (1) This act takes effect at 12:01 a.m. on the day following
26 the expiration of the ninety-day period after final adjournment of the
27 general assembly; except that, if a referendum petition is filed pursuant

1 to section 1 (3) of article V of the state constitution against this act or an
2 item, section, or part of this act within such period, then the act, item,
3 section, or part will not take effect unless approved by the people at the
4 general election to be held in November 2024 and, in such case, will take
5 effect on the date of the official declaration of the vote thereon by the
6 governor.

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