

Solicitations for Filing Documents with or Retrieving Documents from Federal, State, or Local Government; HB 2118

HB 2118 requires certain solicitations to provide specific notice requirements and subjects notice violations to penalties under the Kansas Consumer Protection Act (KCPA).

The bill applies to any person who directly advertises to a person (solicits) a fee for filing a document with, or retrieving a copy or certified copy of a certificate or public record from, the federal government, the State, a state agency, or a local government. The bill does not apply to the federal government, the State, a state agency, or a local government.

The bill does not consider the following a solicitation:

- Consumer-initiated communications; or
- Advertising or marketing to a consumer with whom the solicitor has a current or former commercial relationship.

Notice Requirements

Statements

The bill requires a statement in the solicitation stating, “This is an advertisement. This offer is not being made by, or on behalf of, any government agency. You are not required to make any payment or take any other action in response to this offer.”, or another substantially similar statement.

For solicitations in writing, the statement is required to be in at least 24-point type and located at the top of the physical document or at the beginning of the electronic communication.

If the solicitation is mailed, the bill requires the words, “THIS IS NOT A GOVERNMENT DOCUMENT” in 24-point type and all capital letters on the envelope, outside cover, or wrapper.

Information

The bill requires the solicitation to include:

- The name of the person making the solicitation;
- Such person’s physical address, which could not be a post office box; and
- Information on where the consumer can file a document directly with the Secretary of State or retrieve a copy or certified copy of a certificate or public record.

Restrictions

The bill prohibits the solicitation to be in a form or use deadline dates or other language that makes the document appear to be issued by a government entity or appears to impose a legal duty on the person being solicited.

Consumer Protection Penalties

The bill makes a violation of the notice requirements listed above a deceptive act or practice under the KCPA.

The bill also specifies that, for the purposes of the remedies and penalties provided by the KCPA, the person committing the conduct prohibited by the bill is deemed the supplier, and the person who is the victim of such conduct is deemed the consumer.