

ISSUE BRIEFING: State Efforts to Combat Deceptive Business Compliance Solicitations

The Issue: Businesses in a number of states have been targeted by companies sending misleading or deceptive solicitation mailings purportedly notifying the business of actions it must take to comply with state recordkeeping, reporting, or other requirements. These mailings instruct the business to submit a fee for assistance in complying with the requirements, and often appear to be official government documents, giving businesses the impression they must respond to the solicitation in order to meet state requirements.

Common themes to look for in these scams:

While there are a number of variations, the compliance services offered by the companies behind the scam solicitations are either not required, or can be done by the business itself directly through the appropriate state agency (often the Secretary of State) for a much smaller fee.

The three most prevalent inauthentic solicitations are the following:

- **Reporting Requirement Solicitations:** Instruct a business to submit a fee and complete what appears to be a government form in order to comply with periodic reporting requirements, even though businesses can file reports directly with the Secretary of State for a much smaller fee.
- **Certificate of Status Solicitations:** Imply the business needs to obtain a “Certificate of Good Standing” or “Certificate of Existence” and instructs the business to complete a form and pay a fee in order to obtain the certificate, even though a certificate (if needed) can be obtained from the Secretary of State for a much smaller fee.
- **Annual Minutes Solicitations:** Instruct the business to complete and submit an “Annual Minutes Requirement Statement” and pay a fee, even though annual minutes are not required to be filed with any third party.

Ways to help the public the business community avoid falling prey:

The companies behind the mailings are often difficult to track down and businesses may have little recourse after falling victim to one of these scams. This is because many solicitations include disclaimers in fine print disclosing that the services offered by the solicitation are not required. The language, however, is often obscured by the deceptive and misleading features of the mailing, including the similarity to government forms, statutory references, response deadlines, warnings for failure to comply, etc. Therefore, it’s important for businesses to be aware these scams exist, know the services offered by these solicitations are not required or are unnecessary, and report any mailings that appear deceptive or misleading to the Secretary of State and state Attorney General (or

other appropriate officials), as well as other relevant organization such as the Federal Trade Commission (FTC) and the Better Business Bureau (BBB).

Upon receipt of reports of misleading mailings, many Secretaries of State and/or State Attorneys General take action to directly notify the state's business community, including through press releases, website alerts, and social media. For example, the Secretary of State offices in [Ohio](#) and [Washington](#) provide a webpage to update the public on recent business solicitation scams, including examples of deceptive mailings.

New State Laws to Address Business Solicitation Scams:

Several states have recently passed laws specifically designed to address business solicitation scams, including [Colorado](#), [Kansas](#), [Minnesota](#), [Ohio](#) and [Rhode Island](#). While the specific language may vary by state, these laws often have similar requirements for solicitations offering to file or obtain documents from the Secretary of State, including:

- A statement at the top of the document (in 24-point font for written documents) stating the following:

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.
- A statement on the solicitation envelope stating "THIS IS NOT A GOVERNMENT DOCUMENT".
- Information on where the individual can file or obtain documents directly from the Secretary of State.
- The name and physical address of the person soliciting the fee.
- Must not give the appearance that the solicitation was issued by a government entity, or that it imposes a legal duty on the person being solicited.

Failure to comply with the solicitation requirements is a violation of the respective state laws pertaining to deceptive trade practices.

Additional Questions? Contact NASS: nass@nass.org | 202-624-3525