

1 *Be it enacted by the People of the State of Colorado:*

2 **SECTION 1.** Section 18-1-606, Colorado Revised Statutes, is amended to read:

3 **18-1-606. Criminal liability of business entities and their executive officials.**

4 (1) A business entity is guilty of an offense if:

5 (a) The conduct constituting the offense consists of an omission to discharge a specific duty
6 of affirmative performance imposed on the business entity by law; or

7 (b) The conduct constituting the offense is engaged in, authorized, solicited, requested,
8 commanded, or knowingly tolerated by the governing body or individual authorized to manage
9 the affairs of the business entity or by a executive official acting within the scope of his or her
10 employment or in behalf of the business entity.

11 (1.5) AN EXECUTIVE OFFICIAL IS GUILTY OF AN OFFENSE IF THE CONDUCT CONSTITUTING THE
12 OFFENSE CONSISTS OF AN OMISSION TO DISCHARGE A SPECIFIC DUTY OF AFFIRMATIVE
13 PERFORMANCE IMPOSED ON THE BUSINESS ENTITY BY LAW AND THE EXECUTIVE OFFICIAL KNEW OR
14 REASONABLY SHOULD HAVE KNOWN OF THE SPECIFIC DUTY TO BE PERFORMED.

15 (2) As used in this section:

16 (a) "Agent" means any director, officer, or employee of a business entity, or any other person
17 who is authorized to act in behalf of the business entity, and "executive official" means an officer
18 of a business entity or any other agent in a position of comparable authority with respect to the
19 formulation of the business entity's policy or the supervision in a managerial capacity of
20 subordinate employees.

21 (a.5) "EXECUTIVE OFFICIAL" MEANS ANY NATURAL PERSON WHO IS AN OFFICER, DIRECTOR,
22 MANAGING PARTNER, MANAGING MEMBER, OR SOLE PROPRIETOR OF A BUSINESS ENTITY.

23 (b) "Business entity" means a corporation or other entity that is subject to the provisions of
24 title 7, C.R.S.; foreign corporations qualified to do business in this state pursuant to article 115 of
25 title 7, C.R.S., specifically including federally chartered or authorized financial institutions; a
26 corporation or other entity that is subject to the provisions of title 11, C.R.S.; or a sole
27 proprietorship or other association or group of individuals doing business in the state.

28 (3) Every offense committed by a corporation prior to July 1, 1985, which would be a felony
29 if committed by an individual shall subject the corporation to the payment of a fine of not less
30 than one thousand dollars nor more than fifteen thousand dollars. For such offenses committed
31 on or after July 1, 1985, the corporation shall be subject to the payment of a fine within the
32 presumptive ranges authorized by section 18-1.3-401 (1) (a) (III). Every offense committed by a
33 corporation which would be a misdemeanor or petty offense if committed by an individual shall
34 subject the corporation to the payment of a fine within the minimum and maximum fines

1 authorized by sections 18-1.3-501 and 18-1.3-503 for the particular offense of which the
2 corporation is convicted. For an offense committed on or after July 1, 2003, a business entity
3 shall be subject to the payment of a fine within the presumptive ranges authorized by section 18-
4 1.3-401 (1) (a) (III). An offense committed by a business entity that would be a misdemeanor or
5 petty offense if committed by an individual shall subject the business entity to the payment of a
6 fine within the minimum and maximum fines authorized by sections 18-1.3-501 and 18-1.3-503
7 for the particular offense of which the business entity is convicted. FOR AN OFFENSE COMMITTED
8 ON OR AFTER JANUARY 1, 2009, AN EXECUTIVE OFFICIAL SHALL BE SUBJECT TO THE PAYMENT OF A
9 FINE WITHIN THE PRESUMPTIVE RANGES AUTHORIZED BY SECTION 18-1.3-401 (1) (A) (III). AN
10 OFFENSE COMMITTED BY AN EXECUTIVE OFFICIAL THAT WOULD BE A MISDEMEANOR OR PETTY
11 OFFENSE SHALL SUBJECT THE EXECUTIVE OFFICIAL TO THE PAYMENT OF A FINE WITHIN THE
12 MINIMUM AND MAXIMUM FINES AUTHORIZED BY SECTIONS 18-1.3-501 AND 18-1.3-503 FOR THE
13 PARTICULAR OFFENSE OF WHICH THE EXECUTIVE OFFICIAL IS CONVICTED.

14 (4) IT SHALL BE A COMPLETE AFFIRMATIVE DEFENSE FOR ANY EXECUTIVE OFFICIAL CHARGED
15 UNDER SUBSECTION (1) OF THIS SECTION THAT, PRIOR TO BEING CHARGED, HE OR SHE REPORTED TO
16 THE OFFICE OF THE ATTORNEY GENERAL ALL FACTS OF WHICH HE OR SHE WAS AWARE CONCERNING
17 THE BUSINESS ENTITY'S CONDUCT THAT MET THE CRITERIA SET FORTH IN SUBSECTION (1) OF THIS
18 SECTION.