



Pursuant to section 1-40-107(2), Ron Rockvam, though the undersigned counsel, respectfully petitions this court to review the title, ballot title, and submission clause set by the Ballot Title Setting Board for Proposed Initiatives 2009-2010 #61, #62, and #63 (the "Initiatives").

## **I. ACTION OF THE TITLE BOARD**

The Title Board conducted its initial public hearing and set the title for the Initiatives on April 21, 2010. Petitioner subsequently filed a timely Motion for Rehearing on April 28, 2010. The Title Board considered the motion at its April 30, 2010 hearing and rejected Petitioner's challenges and denied the motion. Petitioner now seeks review of the Title Board's action under section 1-40-107(2).

## **II. ISSUES PRESENTED FOR REVIEW**

- A. The proponents of the Initiatives made changes to the underlying measures after the review and comment hearing that were substantive but not in direct response to questions or comments posed at that hearing. Did the Title Board err in determining that it had jurisdiction to review the Initiatives and set titles?
- B. The Initiatives contain at least three separate subjects that bear no necessary or proper connection to each other. Did the Title Board err in approving the Initiatives under Colorado's single-subject requirement?
- C. Did the Title Board err in setting ballot titles for the Initiatives that fail to disclose major provisions of the measures and are otherwise vague and misleading?

### III. SUPPORTING DOCUMENTATION

As required by section 1-40-107(2), attached is a certified copy of the petition with the title and submission clause of the proposed measure, a certified copy of the Motion for Rehearing, and final action by the Title Board.

### IV. RELIEF REQUESTED

Petitioner respectfully requests that the court reverse the Title Board's denial of the Motion for Rehearing and find that the Title Board lacked jurisdiction to hear these measures. Alternatively, Petitioner requests that the court reverse the Title Board's finding that the Initiatives contain a single subject and find that the title set by the board is misleading and vague.

Respectfully submitted this 7<sup>th</sup> day of May, 2010.

BROWNSTEIN HYATT FARBER SCHRECK LLP



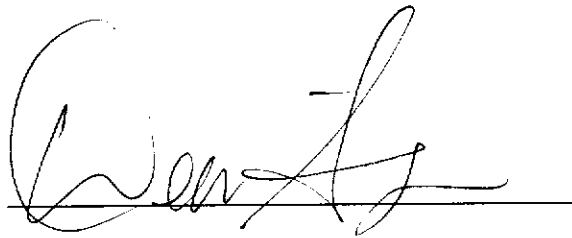
Jason R. Dunn  
Brownstein Hyatt Farber Schreck LLP  
410 17<sup>th</sup> Street, #2200  
Denver, Colorado 80202  
(303) 223-1100  
(303) 223-0914  
jdunn@bhfs.com  
Attorneys for Ron Rockvam

**CERTIFICATE OF SERVICE**

I hereby certify that on May 7, 2010, a true and correct copy of this  
PETITION FOR REVIEW was delivered via U.S. Mail to the following:

Ed Ramey, Esq.  
Isaacson Rosenbaum, P.C.  
633 17<sup>th</sup> Street, #2200  
Denver, Colorado 80202

Maurice Knaizer, Esq.  
Assistant Attorney General  
1525 Sherman Street, 7<sup>th</sup> Floor  
Denver, CO 80203

A handwritten signature in black ink, appearing to read "Maurice Knaizer", is written over a horizontal line. The signature is cursive and stylized.



# STATE OF COLORADO

DEPARTMENT OF  
STATE

## CERTIFICATE

I, **BERNIE BUESCHER**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2009-2010 #61".....

..... **IN TESTIMONY WHEREOF** I have unto set my hand .....  
and affixed the Great Seal of the State of Colorado, at the  
City of Denver this 5<sup>th</sup> day of May, 2010.



*Bernie Buescher*

SECRETARY OF STATE

RECEIVED

APR 08 2010

ELECTIONS  
SECRETARY OF STATE

Be it Enacted by the People of the State of Colorado:

**SECTION 1.** Article 3.1 of Title 5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**5-3.1-101.5. Legislative declaration.** THE PEOPLE OF THIS STATE FIND AND DECLARE THAT PAYDAY LENDERS ARE CHARGING MORE THAN THREE HUNDRED PERCENT INTEREST ANNUALLY FOR PAYDAY LOANS AND THAT EXCESS INTEREST RATES ON SUCH LOANS CAN LEAD COLORADO FAMILIES INTO A DEBT TRAP OF REPEAT BORROWING. IT IS THE INTENT OF THE PEOPLE TO LOWER THE MAXIMUM AUTHORIZED INTEREST RATE FOR PAYDAY LOANS TO THIRTY-SIX PERCENT ANNUALLY, CONSISTENT WITH THE FEDERAL RATE CAP ON LOANS TO MILITARY FAMILIES.

**SECTION 2.** The introductory portion to 5-3.1-102 (3) and 5-3.1-102 (5) (a), Colorado Revised Statutes, are amended to read:

**5-3.1-102. Definitions.** As used in this article, unless the context otherwise requires:

(3) "Deferred deposit loan" OR "PAYDAY LOAN" means a consumer loan whereby the lender, for a fee, finance charge, or other consideration, does the following:

(5) (a) "Lender" means any person who offers or makes a deferred deposit loan, who arranges a deferred deposit loan for a third party, or who acts as an agent for a third party, regardless of whether the third party is exempt from licensing under this article or whether approval, acceptance, or ratification by the third party is necessary to create a legal obligation for the third party, THROUGH ANY METHOD INCLUDING MAIL, TELEPHONE, INTERNET, OR ANY ELECTRONIC MEANS.

**SECTION 3.** 5-3.1-105, Colorado Revised Statutes, is amended to read:

**5-3.1-105. Authorized charges.** A lender may charge, RECEIVE, OR REQUIRE a finance charge, AS DEFINED BY SECTION 5-1-301(20), for each deferred deposit loan OR PAYDAY LOAN that ~~may~~ SHALL not exceed ~~twenty~~ THIRTY-SIX percent of the ~~first three hundred dollars loaned plus seven and one half percent of any amount loaned in excess of three hundred dollars.~~ Such charge shall be deemed fully earned as of the date of the transaction. PER ANNUM. The lender shall NOT charge ~~only these~~ ANY charges OTHER THAN THOSE EXPLICITLY authorized in this article in connection with a deferred deposit loan OR PAYDAY LOAN.

**SECTION 4.** 5-3.1-106 (1), Colorado Revised Statutes, is amended to read:

**5-3.1-106. Maximum loan amount – right to rescind.** (1) A lender shall not lend an amount greater than five hundred dollars ~~nor shall the amount financed exceed five hundred dollars by any one lender at any time to a consumer. No instrument held as a result of a deferred deposit loan shall exceed five hundred seventy five dollars.~~

**SECTION 5.** 5-3.1-121, Colorado Revised Statutes, is amended to read:

#61 Final

**5-3.1-121. Unfair or deceptive practices.** (1) No person shall engage in unfair or deceptive acts, practices, or advertising in connection with a deferred deposit loan.

(2) NO PERSON SHALL SEEK TO EVADE THE PROVISIONS OF THIS ARTICLE BY ANY ARTIFICE, DEVICE, OR SUBTERFUGE, INCLUDING, BUT NOT LIMITED TO, CHARGING, RECEIVING, OR REQUIRING, DIRECTLY OR INDIRECTLY, ANY ADDITIONAL CHARGES FOR ANY ANCILLARY PRODUCTS OR SERVICES PAID OR TO BE PAID FOR BY THE CONSUMER OR BY ANY OTHER PERSON IN CONNECTION OR ASSOCIATED WITH THE OFFER OR PROVISION OF A DEFERRED DEPOSIT LOAN.

**SECTION 6.** Effective date and applicability. This act shall take effect upon proclamation of the governor and shall apply to all loans made or renewed on or after the effective date.

Proponents:

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Counsel:

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APR 28 2010 4:46

COLORADO TITLE SETTING BOARD

ELECTIONS  
SECRETARY OF STATE

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION  
CLAUSE FOR INITIATIVES 2009-2010 NOS. 61, 62 AND 63

ORIGINAL

MOTION FOR REHEARING

On behalf of Petitioner Ron Rockvam, a registered elector of the State of Colorado, the undersigned counsel submits this Motion for Rehearing in the above captioned matter, and as grounds therefore states as follows:

**I. The Title Board lacks jurisdiction to hear these measures.**

Under C.R.S. § 1-40-105(2), a proposed measure may be substantively amended after the review and comment hearing only if such changes are in "direct response" to comments or questions posed at the review and comment hearing. The proponents here made at least two substantive changes to the proposed measures that were not in response (direct or otherwise) to any comments or questions posed at the review and comment hearing. First, the proponents struck the phrase "nor shall the amount financed exceed five hundred dollars" from section 5-3.1-106(1). Second, the proponents made substantive changes to section 5-3.1-121(2) and (3) of the original measure. Accordingly, the Title Board lacks jurisdiction to set titles on these measures.

**II. The measures contain at least three distinct and unconnected subjects.**

The subjects covered by this measure appear to be:

1. A change from a fee and rate based system to an interest rate only limitation on deferred deposit loans;
2. the elimination of the prohibition on a lender giving multiple loans if such loans total more than \$500; and,
3. A new regulatory scheme for non-Colorado based Internet lenders.

**III. The title is vague, misleading and contains impermissible catch phrases.**

1. The title fails to accurately describe that the measure changes the current fee and fixed interest rate based system to an interest rate only system;

2. The title is misleading because it describes the interest rate limitation as an annual rate when annual loans are not legal under the Deferred Deposit Loan Act;
3. The title fails to describe a key component of the measure, namely that it eliminates the prohibition on a lender giving multiple loans that total more than \$500;
4. The title is misleading in that it describes the new regulation of non-Colorado based Internet loans as a "clarification"; and
5. The terms "artifice", "device", and "subterfuge" are both impermissible catch phrases and so vague as to fail to adequately inform voters of the effect of the measures.

Respectfully submitted this 28<sup>th</sup> day of April, 2010.



---

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Brownstein Hyatt Farber Schreck, LLP  
410 17<sup>th</sup> Street, #2200  
(303) 223-1100  
(303) 223-0914  
jdunn@bhfs.com  
Attorneys for Petitioner Ron Rockvam

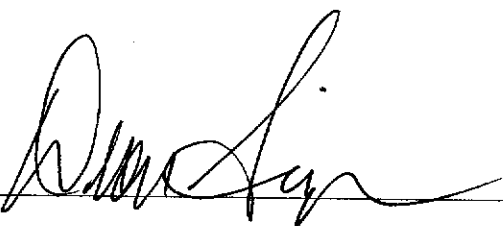
Address of Petitioner:  
2108 Stonecrest Drive  
Fort Collins, CO 80521

CERTIFICATE OF SERVICE

I hereby certify that on April 28, 2010, a true and correct copy of the foregoing MOTION FOR REHEARING was emailed to the following with a hard copy placed in the United States mail, postage prepaid:

Ed Ramey, Esq.  
Isaacson Rosenboaum, P.C.  
633 17<sup>th</sup> Street, #2200  
Denver, CO 80202  
[eramey@ir-law.com](mailto:eramey@ir-law.com)

Attorneys for Proponents



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**Ballot Title Setting Board**

**Proposed Initiative 2009-2010 #61<sup>1</sup>**

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado Revised Statutes concerning deferred deposit loans, and, in connection therewith, limiting permissible charges on a deferred deposit loan made to a consumer to a finance charge not to exceed a 36% annual rate, and clarifying that deferred deposit loans include loans made through any method, including mail, telephone, internet, or electronic means.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado Revised Statutes concerning deferred deposit loans, and, in connection therewith, limiting permissible charges on a deferred deposit loan made to a consumer to a finance charge not to exceed a 36% annual rate, and clarifying that deferred deposit loans include loans made through any method, including mail, telephone, internet, or electronic means?

*Hearing April 21, 2010:*

*Single subject approved; staff draft amended; titles set.*

*Hearing adjourned 5:44 p.m.*

*Hearing April 30, 2010:*

*Motion for Rehearing granted in part to the extent Board amended titles; denied in all other respects.*

*Hearing adjourned 1:17 p.m.*

---

<sup>1</sup> Unofficially captioned “**Interest Rate on Deferred Deposit Loans**” by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.



# STATE OF COLORADO

DEPARTMENT OF  
STATE

## CERTIFICATE

I, **BERNIE BUESCHER**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2009-2010 #62".....

..... **IN TESTIMONY WHEREOF** I have unto set my hand .....  
and affixed the Great Seal of the State of Colorado, at the  
City of Denver this 5<sup>th</sup> day of May, 2010.

A handwritten signature in cursive script that reads "Bernie Buescher".

SECRETARY OF STATE

RECEIVED

APR 08 2010

ELECTIONS  
SECRETARY OF STATE

Be it Enacted by the People of the State of Colorado:

**SECTION 1.** Article 3.1 of Title 5, Colorado Revised Statutes, is amended BY THE ADDITION OF A NEW SECTION to read:

**5-3.1-101.5. Legislative declaration.** THE PEOPLE OF THIS STATE FIND AND DECLARE THAT PAYDAY LENDERS ARE CHARGING MORE THAN THREE HUNDRED PERCENT INTEREST ANNUALLY FOR PAYDAY LOANS AND THAT EXCESS INTEREST RATES ON SUCH LOANS CAN LEAD COLORADO FAMILIES INTO A DEBT TRAP OF REPEAT BORROWING. IT IS THE INTENT OF THE PEOPLE TO LOWER THE MAXIMUM AUTHORIZED INTEREST RATE FOR PAYDAY LOANS TO TWENTY-EIGHT PERCENT ANNUALLY.

**SECTION 2.** The introductory portion to 5-3.1-102 (3) and 5-3.1-102 (5) (a), Colorado Revised Statutes, are amended to read:

**5-3.1-102. Definitions.** As used in this article, unless the context otherwise requires:

(3) "Deferred deposit loan" OR "PAYDAY LOAN" means a consumer loan whereby the lender, for a fee, finance charge, or other consideration, does the following:

(5) (a) "Lender" means any person who offers or makes a deferred deposit loan, who arranges a deferred deposit loan for a third party, or who acts as an agent for a third party, regardless of whether the third party is exempt from licensing under this article or whether approval, acceptance, or ratification by the third party is necessary to create a legal obligation for the third party, THROUGH ANY METHOD INCLUDING MAIL, TELEPHONE, INTERNET, OR ANY ELECTRONIC MEANS.

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**SECTION 4.** 5-3.1-106 (1), Colorado Revised Statutes, is amended to read:

**5-3.1-106. Maximum loan amount – right to rescind.** (1) A lender shall not lend an amount greater than five hundred dollars ~~nor shall the amount financed exceed five hundred dollars by any one lender~~ at any time to a consumer. ~~No instrument held as a result of a deferred deposit loan shall exceed five hundred seventy five dollars.~~

**SECTION 5.** 5-3.1-121, Colorado Revised Statutes, is amended to read:

F62 Final

**5-3.1-121. Unfair or deceptive practices.** (1) No person shall engage in unfair or deceptive acts, practices, or advertising in connection with a deferred deposit loan.

(2) NO PERSON SHALL SEEK TO EVADE THE PROVISIONS OF THIS ARTICLE BY ANY ARTIFICE, DEVICE, OR SUBTERFUGE, INCLUDING, BUT NOT LIMITED TO, CHARGING, RECEIVING, OR REQUIRING, DIRECTLY OR INDIRECTLY, ANY ADDITIONAL CHARGES FOR ANY ANCILLARY PRODUCTS OR SERVICES PAID OR TO BE PAID FOR BY THE CONSUMER OR BY ANY OTHER PERSON IN CONNECTION OR ASSOCIATED WITH THE OFFER OR PROVISION OF A DEFERRED DEPOSIT LOAN.

**SECTION 6. Effective date and applicability.** This act shall take effect upon proclamation of the governor and shall apply to all loans made or renewed on or after the effective date.

Proponents:

Carlos Valverde  
1029 Santa Fe Drive  
Denver, CO 80204  
303.867.0311  
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Estevan Flores, Ph.D.  
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Counsel:

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Denver, CO 80202  
303-256-3978  
[eramey@ir-law.com](mailto:eramey@ir-law.com)





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APR 28 2010 4:46

COLORADO TITLE SETTING BOARD

ELECTIONS  
SECRETARY OF STATE

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION  
CLAUSE FOR INITIATIVES 2009-2010 NOS. 61, 62 AND 63

ORIGINAL

**MOTION FOR REHEARING**

On behalf of Petitioner Ron Rockvam, a registered elector of the State of Colorado, the undersigned counsel submits this Motion for Rehearing in the above captioned matter, and as grounds therefore states as follows:

**I. The Title Board lacks jurisdiction to hear these measures.**

Under C.R.S. § 1-40-105(2), a proposed measure may be substantively amended after the review and comment hearing only if such changes are in "direct response" to comments or questions posed at the review and comment hearing. The proponents here made at least two substantive changes to the proposed measures that were not in response (direct or otherwise) to any comments or questions posed at the review and comment hearing. First, the proponents struck the phrase "nor shall the amount financed exceed five hundred dollars" from section 5-3.1-106(1). Second, the proponents made substantive changes to section 5-3.1-121(2) and (3) of the original measure. Accordingly, the Title Board lacks jurisdiction to set titles on these measures.

**II. The measures contain at least three distinct and unconnected subjects.**

The subjects covered by this measure appear to be:

1. A change from a fee and rate based system to an interest rate only limitation on deferred deposit loans;
2. the elimination of the prohibition on a lender giving multiple loans if such loans total more than \$500; and,
3. A new regulatory scheme for non-Colorado based Internet lenders.

**III. The title is vague, misleading and contains impermissible catch phrases.**

1. The title fails to accurately describe that the measure changes the current fee and fixed interest rate based system to an interest rate only system;

2. The title is misleading because it describes the interest rate limitation as an annual rate when annual loans are not legal under the Deferred Deposit Loan Act;
3. The title fails to describe a key component of the measure, namely that it eliminates the prohibition on a lender giving multiple loans that total more than \$500;
4. The title is misleading in that it describes the new regulation of non-Colorado based Internet loans as a "clarification"; and
5. The terms "artifice", "device", and "subterfuge" are both impermissible catch phrases and so vague as to fail to adequately inform voters of the effect of the measures.

Respectfully submitted this 28<sup>th</sup> day of April, 2010.



---

Jason R. Dunn  
Brownstein Hyatt Farber Schreck, LLP  
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(303) 223-1100  
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jdunn@bhfs.com  
Attorneys for Petitioner Ron Rockvam

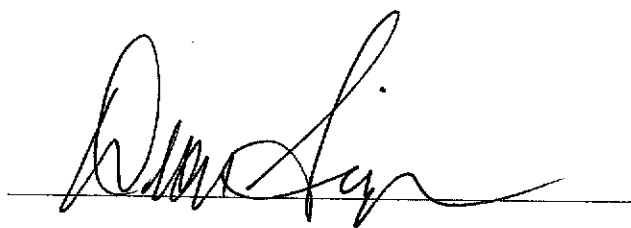
Address of Petitioner:  
2108 Stonecrest Drive  
Fort Collins, CO 80521

CERTIFICATE OF SERVICE

I hereby certify that on April 28, 2010, a true and correct copy of the foregoing MOTION FOR REHEARING was emailed to the following with a hard copy placed in the United States mail, postage prepaid:

Ed Ramey, Esq.  
Isaacson Rosenboam, P.C.  
633 17<sup>th</sup> Street, #2200  
Denver, CO 80202  
[eramey@ir-law.com](mailto:eramey@ir-law.com)

Attorneys for Proponents

A handwritten signature in black ink, appearing to read "Ed Ramey", is written over a horizontal line.

**Ballot Title Setting Board**

**Proposed Initiative 2009-2010 #62<sup>1</sup>**

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado Revised Statutes concerning deferred deposit loans, and, in connection therewith, limiting permissible charges on a deferred deposit loan made to a consumer to a finance charge not to exceed a 28% annual rate, and clarifying that deferred deposit loans include loans made through any method, including mail, telephone, internet, or electronic means.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado Revised Statutes concerning deferred deposit loans, and, in connection therewith, limiting permissible charges on a deferred deposit loan made to a consumer to a finance charge not to exceed a 28% annual rate, and clarifying that deferred deposit loans include loans made through any method, including mail, telephone, internet, or electronic means?

*Hearing April 21, 2010:*

*Single subject approved; staff draft amended; titles set.*

*Hearing adjourned 5:46 p.m.*

*Hearing April 30, 2010:*

*Motion for Rehearing granted in part to the extent Board amended titles; denied in all other respects.*

*Hearing adjourned 1:17 p.m.*

---

<sup>1</sup> Unofficially captioned “**Interest Rate on Deferred Deposit Loans**” by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.



# STATE OF COLORADO

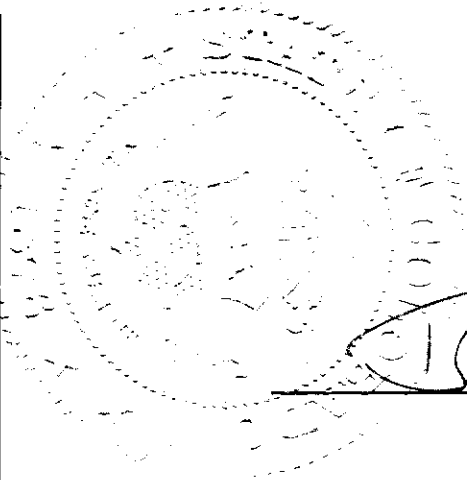
DEPARTMENT OF  
STATE

## CERTIFICATE

I, **BERNIE BUESCHER**, Secretary of State of the State of Colorado, do hereby certify that:

the attached are true and exact copies of the text, motion for rehearing, titles, and the rulings thereon of the Title Board on Proposed Initiative "2009-2010 #63".....

..... **IN TESTIMONY WHEREOF** I have unto set my hand .....  
and affixed the Great Seal of the State of Colorado, at the  
City of Denver this 5<sup>th</sup> day of May, 2010.



*Bernie Buescher*

SECRETARY OF STATE

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ELECTIONS  
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(5) (a) "Lender" means any person who offers or makes a deferred deposit loan, who arranges a deferred deposit loan for a third party, or who acts as an agent for a third party, regardless of whether the third party is exempt from licensing under this article or whether approval, acceptance, or ratification by the third party is necessary to create a legal obligation for the third party, THROUGH ANY METHOD INCLUDING MAIL, TELEPHONE, INTERNET, OR ANY ELECTRONIC MEANS.

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**SECTION 5.** 5-3.1-121, Colorado Revised Statutes, is amended to read:

#63-Final

Proponents:

Gordon Duvall  
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Counsel:

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COLORADO TITLE SETTING BOARD

ORIGINAL

ELECTIONS  
SECRETARY OF STATE

IN THE MATTER OF THE TITLE AND BALLOT TITLE AND SUBMISSION  
CLAUSE FOR INITIATIVES 2009-2010 NOS. 61, 62 AND 63

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Respectfully submitted this 28<sup>th</sup> day of April, 2010.



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Brownstein Hyatt Farber Schreck, LLP  
410 17<sup>th</sup> Street, #2200  
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jdunn@bhfs.com  
Attorneys for Petitioner Ron Rockvam

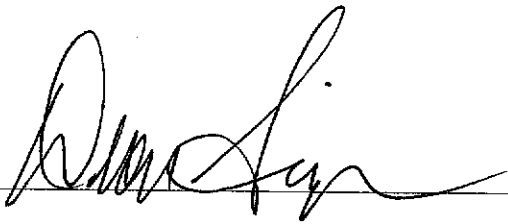
Address of Petitioner:  
2108 Stonecrest Drive  
Fort Collins, CO 80521

CERTIFICATE OF SERVICE

I hereby certify that on April 28, 2010, a true and correct copy of the foregoing MOTION FOR REHEARING was emailed to the following with a hard copy placed in the United States mail, postage prepaid:

Ed Ramey, Esq.  
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Attorneys for Proponents



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**Ballot Title Setting Board**

**Proposed Initiative 2009-2010 #63<sup>1</sup>**

The title as designated and fixed by the Board is as follows:

An amendment to the Colorado Revised Statutes concerning deferred deposit loans, and, in connection therewith, limiting permissible charges on a deferred deposit loan made to a consumer to a finance charge not to exceed an 18% annual rate, and clarifying that deferred deposit loans include loans made through any method, including mail, telephone, internet, or electronic means.

The ballot title and submission clause as designated and fixed by the Board is as follows:

Shall there be an amendment to the Colorado Revised Statutes concerning deferred deposit loans, and, in connection therewith, limiting permissible charges on a deferred deposit loan made to a consumer to a finance charge not to exceed an 18% annual rate, and clarifying that deferred deposit loans include loans made through any method, including mail, telephone, internet, or electronic means?

*Hearing April 21, 2010:*

*Single subject approved; staff draft amended; titles set.*

*Hearing adjourned 5:47 p.m.*

*Hearing April 30, 2010:*

*Motion for Rehearing granted in part to the extent Board amended titles; denied in all other respects.*

*Hearing adjourned 1:17 p.m.*

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<sup>1</sup> Unofficially captioned “**Interest Rate on Deferred Deposit Loans**” by legislative staff for tracking purposes. Such caption is not part of the titles set by the Board.