

Chapter 851

(House Bill 1498)

AN ACT concerning

Campaign Finance – Political Organizations – Compliance and Disclosure

FOR the purpose of authorizing a political action committee to establish one compliance account; providing that disbursements from a political action committee compliance account may be made only for purposes of complying with certain campaign finance laws; providing that donations to a political action committee compliance account may be made only if the donor consents to the use of the donation for certain purposes; providing that donations to a political action committee compliance account are not subject to certain limits; prohibiting a campaign finance entity from making a transfer to a political action committee compliance account; requiring the State Board of Elections to adopt regulations defining permissible disbursements from a political action committee compliance account and requiring disclosure of donations to a political action committee compliance account and disbursements from a political action committee compliance account; requiring certain persons that make independent expenditures or disbursements for electioneering communications to identify a registered agent located in the State for service of process; providing that certain civil penalties for failure to file certain reports concerning independent expenditures and electioneering communications are the joint and several liability of certain persons; prohibiting certain individuals making independent expenditures or disbursements for electioneering communications who have failed to pay certain civil penalties or late fees from serving in certain roles in certain political organizations; requiring certain political action committees to include certain information concerning contributions and expenditures in certain disclosure reports; requiring a registration form filed by certain participating organizations to include certain information; repealing certain provisions concerning the deadlines and contents of certain reports filed by participating organizations; defining certain terms; requiring a participating organization to file a report with the State Board of Elections within a certain period of time after making aggregate political disbursements of more than a certain amount; requiring a participating organization to file an additional report with the State Board within a certain period of time after making aggregate political disbursements of more than a certain amount after the closing date of the participating organization's previous report; requiring a report filed by a participating organization to include certain information; requiring a participating organization's reports to cover certain periods; providing that a participating organization is not required to file any reports if the participating organization provides a link to certain information on its Web site; requiring a participating organization report to be signed and filed by the treasurer or another individual designated by the participating organization; requiring certain participating organizations to identify a registered agent located in the State for service of process; requiring a participating organization to file an amended report under certain circumstances; authorizing the State Board to assess certain civil

penalties for failure to file certain participating organization reports; providing for the payment and distribution of certain civil penalties; authorizing a participating organization to seek relief from certain civil penalties under certain circumstances; prohibiting certain individuals holding certain positions in a participating organization who have failed to pay certain civil penalties or late fees from serving in certain roles in certain political organizations; requiring a participating organization to keep certain records; authorizing the State Board to adopt certain regulations; and generally relating to compliance with campaign finance laws and disclosure requirements for political organizations.

BY adding to

Article – Election Law

Section 13–220.2

Annotated Code of Maryland

(2010 Replacement Volume and 2016 Supplement)

BY repealing and reenacting, with amendments,

Article – Election Law

Section 1–101(o), 13–306, 13–307, 13–309.1, and 13–309.2

Annotated Code of Maryland

(2010 Replacement Volume and 2016 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
That the Laws of Maryland read as follows:

Article – Election Law

1–101.

(o) (1) “Contribution” means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a campaign finance entity to promote or assist in the promotion of the success or defeat of a candidate, political party, question, or prospective question.

(2) “Contribution” includes:

(i) proceeds from the sale of tickets to a campaign fund–raising event;
and

(ii) a disbursement or deposit of money or a gift, a subscription, an advance, or anything of value that is made by a person in coordination with, or at the request or suggestion of, a candidate or a campaign finance entity of a candidate.

(3) “CONTRIBUTION” DOES NOT INCLUDE THE COSTS ASSOCIATED WITH THE ESTABLISHMENT, ADMINISTRATION, OR SOLICITATION OF VOLUNTARY CONTRIBUTIONS TO A POLITICAL ACTION COMMITTEE ESTABLISHED BY A

CORPORATION, LIMITED LIABILITY COMPANY, GENERAL PARTNERSHIP, LIMITED PARTNERSHIP, MEMBERSHIP ORGANIZATION, TRADE ASSOCIATION, COOPERATIVE, OR CORPORATION WITHOUT CAPITAL STOCK AS LONG AS THE POLITICAL ACTION COMMITTEE ONLY SOLICITS CONTRIBUTIONS FROM EMPLOYEES OF THE ORGANIZATION THAT ESTABLISHED THE POLITICAL ACTION COMMITTEE, OR MEMBERS OF THE ORGANIZATION THAT ESTABLISHED THE POLITICAL ACTION COMMITTEE, AND THE EMPLOYEES OR MEMBERS ARE PARTICIPATING IN A PAYROLL DEDUCTION PROGRAM ESTABLISHED BY THE ~~ORGANIZATION~~ EMPLOYER OF THE EMPLOYEE OR MEMBER.

13-220.2.

(A) EACH POLITICAL ACTION COMMITTEE MAY ESTABLISH ONE COMPLIANCE ACCOUNT.

(B) DISBURSEMENTS FROM A POLITICAL ACTION COMMITTEE COMPLIANCE ACCOUNT MAY BE MADE ONLY FOR PURPOSES OF RECORD KEEPING, REPORTING, AND ANY OTHER WORK NECESSARY TO COMPLY WITH THE REQUIREMENTS OF THIS TITLE, INCLUDING ACCOUNTING AND LEGAL SERVICES.

(C) A DISBURSEMENT FROM A POLITICAL ACTION COMMITTEE COMPLIANCE ACCOUNT MAY NOT BE MADE FOR THE PURPOSE OF SOLICITING CONTRIBUTIONS FOR THE POLITICAL ACTION COMMITTEE.

(D) A DONATION TO A POLITICAL ACTION COMMITTEE COMPLIANCE ACCOUNT:

(1) MAY BE MADE ONLY IF THE DONOR IS AWARE THAT THE DONATION WILL BE USED FOR THE PURPOSES DESCRIBED IN SUBSECTION (B) OF THIS SECTION AND CONSENTS TO THAT USE BEFORE MAKING THE DONATION; AND

(2) IS NOT SUBJECT TO § 13-226 OF THIS SUBTITLE.

(E) A CAMPAIGN FINANCE ENTITY MAY NOT MAKE A TRANSFER TO A POLITICAL ACTION COMMITTEE COMPLIANCE ACCOUNT.

(F) THE STATE BOARD SHALL ADOPT REGULATIONS THAT:

(1) DEFINE PERMISSIBLE DONATIONS TO AND DISBURSEMENTS FROM A POLITICAL ACTION COMMITTEE COMPLIANCE ACCOUNT; AND

(2) REQUIRE DISCLOSURE OF:

(I) DONATIONS TO A POLITICAL ACTION COMMITTEE COMPLIANCE ACCOUNT; AND

(II) DISBURSEMENTS FROM A POLITICAL ACTION COMMITTEE COMPLIANCE ACCOUNT.

13–306.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Donation” means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a person who makes independent expenditures.

(ii) “Donation” does not include any amount of money or any other thing of value:

1. received by a person in the ordinary course of any trade or business conducted by the person, whether for profit or not for profit, or in the form of investments in the person’s business; or

2. A. that the donor and the person receiving the money or thing of value expressly agree in writing may not be used for independent expenditures; and

B. in the case of a monetary donation, is deposited in a separate bank account that is never used for independent expenditures.

(3) “E–mail blast” means a transmission of electronic mail messages of an identical or substantially similar nature to 5,000 or more e–mail accounts simultaneously.

(4) “Mass mailing” means a mailing by United States mail or facsimile of more than 500 pieces of mail matter of an identical or substantially similar nature within any 30–day period.

(5) (i) “Person” includes an individual, a partnership, a committee, an association, a corporation, a labor organization, or any other organization or group of persons.

(ii) “Person” does not include a campaign finance entity organized under Subtitle 2, Part II of this title.

(6) (i) “Public communication” means a communication by means of any broadcast television or radio communication, cable television communication, satellite television or radio communication, newspaper, magazine, outdoor advertising facility, mass mailing, e–mail blast, text blast, or telephone bank to the general public, or any other form of general public political advertising.

(ii) “Public communication” does not include:

1. a news story, a commentary, or an editorial disseminated by a broadcasting station, including a cable television operator, programmer, or producer, satellite television or radio provider, Web site, newspaper, magazine, or other periodical publication, including any Internet or electronic publication, that is not controlled by a candidate or political party;

2. an internal membership communication by a business or other entity to its stockholders or members and executive and administrative personnel and their immediate families, or by a membership entity, as defined under § 13–243 of this title, to its members, executive and administrative personnel and their immediate families; or

3. a candidate debate or forum.

(7) “Telephone bank” means more than 500 telephone calls of an identical or substantially similar nature within any 30–day period.

(8) “Text blast” means a transmission of text messages of an identical or substantially similar nature to 5,000 or more telephone numbers simultaneously.

(b) Within 48 hours after a person makes aggregate independent expenditures of \$5,000 or more in an election cycle for campaign material that is a public communication, the person shall file a registration form with the State Board.

(c) Within 48 hours after a day on which a person makes aggregate independent expenditures of \$10,000 or more in an election cycle for campaign material that is a public communication, the person shall file an independent expenditure report with the State Board.

(d) A person who files an independent expenditure report under subsection (c) of this section shall file an additional independent expenditure report with the State Board within 48 hours after a day on which the person makes aggregate independent expenditures of \$10,000 or more for campaign material that is a public communication following the closing date of the person’s previous independent expenditure report.

(e) An independent expenditure report shall include the following information:

(1) the identity of the person making the independent expenditures and of [any] **THE** person exercising direction or control over the activities of the person making the independent expenditures;

(2) the business address of the person making the independent expenditures;

(3) the amount and date of each independent expenditure during the period covered by the report and the person to whom the expenditure was made;

(4) the candidate or ballot issue to which the independent expenditure relates and whether the independent expenditure supports or opposes that candidate or ballot issue; and

(5) the identity of each person who made cumulative donations of \$6,000 or more to the person making the independent expenditures during the period covered by the report.

(f) For purposes of this section, a person shall be considered to have made an independent expenditure if the person has executed a contract to make an independent expenditure.

(g) The cost of creating and disseminating campaign material, including any design and production costs, shall be considered in determining the aggregate amount of independent expenditures made by a person for campaign material that is a public communication under this section.

(h) The treasurer or other individual designated by an entity required to file an independent expenditure report under this section:

(1) shall sign each independent expenditure report; and

(2) is responsible for filing independent expenditure reports in full and accurate detail.

(I) (1) WITHIN 48 HOURS AFTER A PERSON MAKES AGGREGATE INDEPENDENT EXPENDITURES OF \$50,000 OR MORE IN AN ELECTION CYCLE FOR CAMPAIGN MATERIAL THAT IS A PUBLIC COMMUNICATION, THE PERSON SHALL IDENTIFY A REGISTERED AGENT LOCATED IN THE STATE FOR SERVICE OF PROCESS.

(2) A ~~PARTICIPATING ORGANIZATION~~ PERSON MAKING INDEPENDENT EXPENDITURES SHALL IDENTIFY A REGISTERED AGENT ON A FORM PRESCRIBED BY THE STATE BOARD.

[(i)] (J) (1) A person who fails to provide on an independent expenditure report all of the information required by this section shall file an amended report as provided in § 13–327(b) of this subtitle.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, in addition to any other sanction provided by law, the State Board may assess a civil penalty

for failure to file properly an independent expenditure report or an amended independent expenditure report in an amount not exceeding the greater of:

1. \$1,000 for each day or part of a day that an independent expenditure report or amended independent expenditure report is overdue; or

2. 10% of the amount of the donations or independent expenditures that were not reported in a timely manner.

(ii) If the failure to file properly an independent expenditure report or an amended independent expenditure report occurs more than 28 days before the day of a primary or general election, the State Board may assess a civil penalty in an amount not exceeding the greater of:

1. \$100 for each day or part of a day that an independent expenditure report or amended independent expenditure report is overdue; or

2. 10% of the amount of the donations or disbursements for independent expenditures that were not reported in a timely manner.

(3) A civil penalty under paragraph (2) of this subsection shall be:

(i) assessed in the manner specified in § 13–604.1 of this title; [and]

(ii) distributed to the Fair Campaign Financing Fund established under § 15–103 of this article; AND

(III) THE JOINT AND SEVERAL LIABILITY OF:

1. THE PERSON MAKING INDEPENDENT EXPENDITURES;

2. THE TREASURER OR OTHER INDIVIDUAL WHO SIGNS AND FILES THE REPORTS REQUIRED BY THIS SECTION FOR THE PERSON MAKING INDEPENDENT EXPENDITURES; AND

3. THE PERSON EXERCISING DIRECTION OR CONTROL OVER THE ACTIVITIES OF THE PERSON MAKING INDEPENDENT EXPENDITURES.

(4) A person who fails to file properly an independent expenditure report or amended independent expenditure report under this section may seek relief from a penalty under paragraph (2) of this subsection for just cause as provided in § 13–337 of this subtitle.

(K) IF A TREASURER OF A PERSON MAKING INDEPENDENT EXPENDITURES OR A PERSON EXERCISING DIRECTION OR CONTROL OVER THE ACTIVITIES OF A

PERSON MAKING INDEPENDENT EXPENDITURES HAS FAILED TO PAY ANY CIVIL PENALTY OR LATE FEE UNDER THIS TITLE FOR WHICH THE INDIVIDUAL IS RESPONSIBLE, THE INDIVIDUAL MAY NOT:

(1) SERVE AS THE RESPONSIBLE OFFICER OF A POLITICAL COMMITTEE;

(2) SERVE IN ANY POSITION OF RESPONSIBILITY IN ANY OTHER ENTITY SUBJECT TO REGULATION UNDER THIS TITLE; OR

(3) ASSIST IN THE FORMATION OF A POLITICAL COMMITTEE OR ANY OTHER ENTITY SUBJECT TO REGULATION UNDER THIS TITLE.

[(j)] (L) (1) An entity required to file an independent expenditure report under this section shall do at least one of the following, unless neither are applicable to the entity:

(i) if the entity submits regular, periodic reports to its shareholders, members, or donors, include in each report, in a clear and conspicuous manner, the information specified in subsection (e)(3) through (5) of this section for each independent expenditure made during the period covered by the report that must be included in an independent expenditure report; or

(ii) if the entity maintains an Internet site, post on that Internet site a hyperlink from its homepage to the Internet site where the entity's independent expenditure report information is publicly available.

(2) An entity shall post the hyperlink required under paragraph (1)(ii) of this subsection within 24 hours of the entity's independent expenditure report information being made publicly available on the Internet, and the hyperlink shall remain posted on the entity's Internet site until the end of the election cycle during which the entity filed an independent expenditure report.

[(k)] (M) (1) A person required to file an independent expenditure report under this section shall keep detailed and accurate records of:

(i) all independent expenditures made by the person for campaign material that is a public communication; and

(ii) all donations received by the person.

(2) Records required to be kept under this subsection shall be preserved for 2 years after the end of the election cycle in which the person filed the independent expenditure report to which the records relate.

[(l)] (N) The State Board may adopt regulations as necessary to implement the requirements of this section.

13-307.

(a) (1) In this section the following words have the meanings indicated.

(2) (i) “Donation” means the gift or transfer, or promise of gift or transfer, of money or other thing of value to a person that makes disbursements for electioneering communications.

(ii) “Donation” does not include any amount of money or any other thing of value:

1. received by a person in the ordinary course of any trade or business conducted by the person, whether for profit or not for profit, or in the form of investments in the person’s business; or

2. A. that the donor and the person receiving the money or thing of value expressly agree in writing may not be used for electioneering communications; and

B. in the case of a monetary donation, is deposited in a separate bank account that is never used for electioneering communications.

(3) (i) “Electioneering communication” means a broadcast television or radio communication, a cable television communication, a satellite television or radio communication, a mass mailing, an e-mail blast, a text blast, a telephone bank, or an advertisement in a print publication that:

1. refers to a clearly identified candidate or ballot issue;

2. is made within 60 days of an election day on which the candidate or ballot issue is on the ballot;

3. is capable of being received by:

A. 50,000 or more individuals in the constituency where the candidate or ballot issue is on the ballot, if the communication is transmitted by television or radio; or

B. 5,000 or more individuals in the constituency where the candidate or ballot issue is on the ballot, if the communication is a mass mailing, an e-mail blast, a text blast, a telephone bank, or an advertisement in a print publication; and

4. is not made in coordination with, or at the request or suggestion of, a candidate, a campaign finance entity of a candidate, an agent of a candidate, or a ballot issue committee.

(ii) “Electioneering communication” does not include:

1. an independent expenditure;
2. a news story, a commentary, or an editorial disseminated by a broadcasting station, including a cable television operator, programmer, or producer, or satellite television or radio provider that is not controlled by a candidate or political party;
3. a candidate debate or forum;
4. an internal membership communication by a business or other entity to its stockholders or members and executive and administrative personnel and their immediate families, or by a membership entity, as defined under § 13–243 of this title, to its members, executive and administrative personnel and their immediate families; or
5. a communication that proposes a commercial transaction.

(iii) For purposes of this paragraph, “clearly identified” means:

1. the name of a candidate appears;
2. a photograph or drawing of a candidate appears; or
3. the identity of a candidate or ballot issue is apparent by unambiguous reference.

(4) “E–mail blast” means a transmission of electronic mail messages of an identical or substantially similar nature to 5,000 or more e–mail accounts simultaneously.

(5) “Mass mailing” means a mailing by United States mail or facsimile of more than 5,000 pieces of mail matter of an identical or substantially similar nature within any 30–day period.

(6) (i) “Person” includes an individual, a partnership, a committee, an association, a corporation, a labor organization, or any other organization or group of persons.

(ii) “Person” does not include a campaign finance entity organized under Subtitle 2, Part II of this title.

(7) “Telephone bank” means more than 5,000 telephone calls of an identical or substantially similar nature within any 30-day period.

(8) “Text blast” means a transmission of text messages of an identical or substantially similar nature to 5,000 or more telephone numbers simultaneously.

(b) Within 48 hours after a person makes aggregate disbursements of \$5,000 or more in an election cycle for electioneering communications, the person shall file a registration form with the State Board.

(c) Within 48 hours after a day on which a person makes aggregate disbursements of \$10,000 or more in an election cycle for electioneering communications, the person shall file an electioneering communication report with the State Board.

(d) A person who files an electioneering communication report under subsection (c) of this section shall file an additional electioneering communication report with the State Board within 48 hours after a day on which the person makes aggregate disbursements of \$10,000 or more for electioneering communications following the closing date of the person’s previous electioneering communication report.

(e) An electioneering communication report shall include the following information:

(1) the identity of the person making disbursements for electioneering communications and of [any] **THE** person exercising direction or control over the activities of the person making the disbursements for electioneering communications;

(2) the business address of the person making the disbursements for electioneering communications;

(3) the amount and date of each disbursement for electioneering communications during the period covered by the report and the person to whom the disbursement was made;

(4) the candidate or ballot issue to which the electioneering communications relate;

(5) the identity of each person who made cumulative donations of \$6,000 or more to the person making the disbursements for electioneering communications during the period covered by the report.

(f) (1) For purposes of this section, a person shall be considered to have made a disbursement for an electioneering communication if the person has executed a contract to make a disbursement for an electioneering communication.

(2) A person who makes a contribution to a campaign finance entity may not be considered to have made a disbursement for electioneering communications under this section because of the contribution.

(g) The cost of creating and disseminating electioneering communications, including any design and production costs, shall be considered in determining the aggregate amount of disbursements for electioneering communications made by a person under this section.

(h) The treasurer or other individual designated by an entity required to file an electioneering communication report under this section:

(1) shall sign each electioneering communication report; and

(2) is responsible for filing electioneering communication reports in full and accurate detail.

(I) (1) WITHIN 48 HOURS AFTER A PERSON MAKES AGGREGATE DISBURSEMENTS OF \$50,000 OR MORE IN AN ELECTION CYCLE FOR ELECTIONEERING COMMUNICATIONS, THE PERSON SHALL IDENTIFY A REGISTERED AGENT LOCATED IN THE STATE FOR SERVICE OF PROCESS.

(2) A PERSON MAKING DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS SHALL IDENTIFY A REGISTERED AGENT ON A FORM PRESCRIBED BY THE STATE BOARD.

[(i)] (J) (1) A person who fails to provide on an electioneering communication report all of the information required by this section shall file an amended report as provided in § 13–327(b) of this subtitle.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, in addition to any other sanction provided by law, the State Board may assess a civil penalty for failure to file properly an electioneering communication report or an amended electioneering communication report in an amount not exceeding the greater of:

1. \$1,000 for each day or part of a day that an electioneering communication report or amended electioneering communication report is overdue; or

2. 10% of the amount of the donations or disbursements for electioneering communications that were not reported in a timely manner.

(ii) If the failure to file properly an electioneering communication report or an amended electioneering communication report occurs more than 28 days before the day of a primary or general election, the State Board may assess a civil penalty in an amount not exceeding the greater of:

1. \$100 for each day or part of a day that an electioneering communication report or amended electioneering communication report is overdue; or

2. 10% of the amount of the donations or disbursements for electioneering communications that were not reported in a timely manner.

(3) A penalty under paragraph (2) of this subsection shall be:

(i) assessed in the manner specified in § 13–604.1 of this title; [and]

(ii) distributed to the Fair Campaign Financing Fund established under § 15–103 of this article; AND

(III) THE JOINT AND SEVERAL LIABILITY OF:

1. THE PERSON MAKING DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS;

2. THE TREASURER OR OTHER INDIVIDUAL WHO SIGNS AND FILES THE REPORTS REQUIRED BY THIS SECTION FOR THE PERSON MAKING DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS; AND

3. THE PERSON EXERCISING DIRECTION OR CONTROL OVER THE ACTIVITIES OF THE PERSON MAKING DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS.

(4) A person who fails to file properly an electioneering communication report or amended electioneering communication report under this section may seek relief from a penalty under paragraph (2) of this subsection for just cause as provided in § 13–337 of this subtitle.

(K) IF A TREASURER OF A PERSON MAKING DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS OR A PERSON EXERCISING DIRECTION OR CONTROL OVER THE ACTIVITIES OF A PERSON MAKING DISBURSEMENTS FOR ELECTIONEERING COMMUNICATIONS HAS FAILED TO PAY ANY CIVIL PENALTY OR LATE FEE UNDER THIS TITLE FOR WHICH THE INDIVIDUAL IS RESPONSIBLE, THE INDIVIDUAL MAY NOT:

(1) SERVE AS THE RESPONSIBLE OFFICER OF A POLITICAL COMMITTEE;

(2) SERVE IN ANY POSITION OF RESPONSIBILITY IN ANY OTHER ENTITY SUBJECT TO REGULATION UNDER THIS TITLE; OR

(3) ASSIST IN THE FORMATION OF A POLITICAL COMMITTEE OR ANY OTHER ENTITY SUBJECT TO REGULATION UNDER THIS TITLE.

[(j)] (L) (1) An entity required to file an electioneering communication report under this section shall do at least one of the following, unless neither are applicable to the entity:

(i) if the entity submits regular, periodic reports to its shareholders, members, or donors, include in each report in a clear and conspicuous manner, the information specified in subsection (e)(3) through (5) of this section for each disbursement for electioneering communications made during the period covered by the report that must be included in an electioneering communication report; or

(ii) if the entity maintains an Internet site, post on that Internet site a hyperlink from its homepage to the Internet site where the entity's electioneering communication report information is publicly available.

(2) (i) An entity shall post the hyperlink required under paragraph (1)(ii) of this subsection within 24 hours of the entity's electioneering communication report information being made publicly available on the Internet.

(ii) The hyperlink shall remain posted on the entity's Internet site until the end of the election cycle during which the entity filed an electioneering communication report.

[(k)] (M) (1) A person required to file an electioneering communication report under this section shall keep detailed and accurate records of:

(i) all disbursements for electioneering communications made by the person; and

(ii) all donations received by the person.

(2) Records required to be kept under this subsection shall be preserved until 2 years after the end of the election cycle in which the person filed the electioneering communication report to which the records relate.

[(l)] (N) The State Board may adopt regulations as necessary to implement the requirements of this section.

13-309.1.

(a) In this section, "electioneering communication" has the meaning stated in § 13-307(a) of this subtitle.

(b) This section applies to a political action committee that exclusively makes:

- (1) independent expenditures; or
- (2) disbursements for electioneering communications.

(c) For purposes of this section, a political action committee shall be considered to have made an expenditure if the political committee has executed a contract to make an expenditure.

(d) (1) The disclosure reports required under this section are in addition to the campaign finance reports required under § 13–309 of this subtitle.

(2) The political action committee shall include all of the information reported on a disclosure report on its regularly filed campaign finance reports.

(e) A political action committee shall file a disclosure report within 48 hours after a day on which the political action committee makes aggregate expenditures of \$10,000 or more on campaign material during the reporting period covered by its next campaign finance report.

(f) A political action committee shall file an additional disclosure report within 48 hours after a day on which the political action committee makes aggregate expenditures of \$10,000 or more on campaign material following the closing date of the immediately preceding disclosure report filed by the political action committee.

(G) A DISCLOSURE REPORT SHALL INCLUDE THE INFORMATION REQUIRED BY THE STATE BOARD WITH RESPECT TO ALL CONTRIBUTIONS RECEIVED AND ALL EXPENDITURES MADE BY OR ON BEHALF OF THE POLITICAL ACTION COMMITTEE DURING THE REPORTING PERIOD.

[(g)] (H) In addition to any other sanction provided by law, the State Board may assess a penalty for failure to file properly a disclosure report or an amended disclosure report required under this section in an amount not exceeding the greater of:

- (1) \$1,000 for each day or part of a day that a disclosure report or an amended campaign finance report is overdue; or
- (2) 10% of the amount of the contributions or expenditures that were not reported in a timely manner.

[(h)] (I) A person who fails to file properly a disclosure report or an amended disclosure report under this section may seek relief from a penalty under subsection **[(g)] (H)** of this section for just cause as provided in § 13–337 of this subtitle.

[(i)] (J) A penalty under subsection **[(g)] (H)** of this section shall be:

(1) assessed in the manner specified in § 13–604.1 of this title; and

(2) distributed to the Fair Campaign Financing Fund established under § 15–103 of this article.

(K) IF A RESPONSIBLE OFFICER OF A POLITICAL ACTION COMMITTEE SUBJECT TO THIS SECTION HAS FAILED TO PAY ANY CIVIL PENALTY OR LATE FEE UNDER THIS TITLE FOR WHICH THE INDIVIDUAL IS RESPONSIBLE, THE INDIVIDUAL MAY NOT:

(1) SERVE AS THE RESPONSIBLE OFFICER OF ANY OTHER POLITICAL COMMITTEE;

(2) SERVE IN ANY POSITION OF RESPONSIBILITY IN ANY OTHER ENTITY SUBJECT TO REGULATION UNDER THIS TITLE; OR

(3) ASSIST IN THE FORMATION OF A POLITICAL COMMITTEE OR ANY OTHER ENTITY SUBJECT TO REGULATION UNDER THIS TITLE.

13–309.2.

(a) (1) In this section[,] THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(2) (I) “DONATION” MEANS THE GIFT OR TRANSFER, OR PROMISE OF GIFT OR TRANSFER, OF MONEY OR ANY OTHER THING OF VALUE TO A PARTICIPATING ORGANIZATION.

(II) “DONATION” DOES NOT INCLUDE ANY AMOUNT OF MONEY OR OTHER THING OF VALUE:

1. RECEIVED BY A PARTICIPATING ORGANIZATION IN THE ORDINARY COURSE OF ANY TRADE OR BUSINESS CONDUCTED BY THE PARTICIPATING ORGANIZATION, WHETHER FOR PROFIT OR NOT FOR PROFIT, OR IN THE FORM OF INVESTMENTS IN THE PARTICIPATING ORGANIZATION’S BUSINESS; OR

2. A. THAT THE DONOR AND THE PARTICIPATING ORGANIZATION EXPRESSLY AGREE IN WRITING MAY NOT BE USED FOR POLITICAL DISBURSEMENTS; AND

B. IN THE CASE OF A MONETARY DONATION, IS DEPOSITED IN A SEPARATE BANK ACCOUNT THAT IS NEVER USED FOR POLITICAL DISBURSEMENTS.

(3) [“participating] **“PARTICIPATING** organization” means any entity that:

(I) is organized under § 501(c)(4) or (6) or § 527 of the Internal Revenue Code; and

(II) makes **POLITICAL DISBURSEMENTS**[:].

(4) **“POLITICAL DISBURSEMENTS” MEANS:**

[(1)] (I) a contribution to a [campaign finance entity for the express purpose of causing the campaign finance entity to make a disbursement in] **POLITICAL COMMITTEE ORGANIZED UNDER THE LAWS OF** the State;

[(2)] (II) [a donation to a person for the express purpose of causing the person to make an] **A DISBURSEMENT TO A PERSON MAKING AN** independent expenditure or a disbursement for electioneering communications in the State; or

[(3)] (III) a [donation] **DISBURSEMENT** to an out-of-state political committee [for the express purpose of causing the political committee to make] **THAT MAKES** a disbursement in the State.

(b) (1) Within 48 hours after a participating organization makes [a contribution, donation, or disbursement] **AGGREGATE POLITICAL DISBURSEMENTS of MORE THAN \$6,000 [or more]** in an election cycle, the participating organization shall file a registration form with the State Board.

(2) **THE REGISTRATION FORM SHALL INCLUDE:**

(I) **A STATEMENT OF WHETHER THE PARTICIPATING ORGANIZATION PLANS TO FILE THE REPORTS REQUIRED UNDER SUBSECTION (C) OF THIS SECTION OR PROVIDE A LINK ON THE HOMEPAGE OF ITS WEB SITE AS SPECIFIED IN SUBSECTION (D) OF THIS SECTION; AND**

(II) **THE IDENTITY OF THE PERSON EXERCISING DIRECTION OR CONTROL OVER THE ACTIVITIES OF THE PARTICIPATING ORGANIZATION.**

[(c)] A participating organization shall file a report with the State Board in the year of the election for which it is participating for the periods and on or before the dates that a campaign finance entity for a candidate is required to file a campaign finance report under this subtitle.

(d) The report shall include all disbursements made to influence an election in the State and either:

(1) the name, address, and occupation, if any, of the five donors who gave the largest amount of money to the participating organization to influence an election in the State during the 1 year period that immediately precedes the date of the report; or

(2) if the participating organization made a filing with the State Board under subsection (b) of this section within 6 months of the date when a report otherwise would be required, describe how the public may access via the Internet the participating organization's reports that detail disbursements made and donations received.]

(C) (1) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, WITHIN 48 HOURS AFTER A PARTICIPATING ORGANIZATION MAKES AGGREGATE POLITICAL DISBURSEMENTS OF \$10,000 OR MORE IN AN ELECTION CYCLE, THE PARTICIPATING ORGANIZATION SHALL FILE A PARTICIPATING ORGANIZATION REPORT WITH THE STATE BOARD.

(2) EXCEPT AS PROVIDED IN SUBSECTION (D) OF THIS SECTION, A PARTICIPATING ORGANIZATION SHALL FILE AN ADDITIONAL PARTICIPATING ORGANIZATION REPORT WITH THE STATE BOARD WITHIN 48 HOURS AFTER THE PARTICIPATING ORGANIZATION MAKES AGGREGATE POLITICAL DISBURSEMENTS OF \$10,000 OR MORE AFTER THE CLOSING DATE OF THE PARTICIPATING ORGANIZATION'S PREVIOUS PARTICIPATING ORGANIZATION REPORT.

(3) A PARTICIPATING ORGANIZATION REPORT SHALL INCLUDE:

(I) THE AMOUNT AND DATE OF EACH POLITICAL DISBURSEMENT MADE BY THE PERSON IN THE STATE OR TO INFLUENCE A STATE ELECTION DURING THE PERIOD COVERED BY THE REPORT;

(II) THE IDENTITY OF EACH PERSON THAT MADE CUMULATIVE DONATIONS OF ~~MORE THAN \$6,000~~ ~~\$25,000~~ \$10,000 OR MORE TO THE PARTICIPATING ORGANIZATION DURING THE PERIOD COVERED BY THE REPORT; AND

(III) ANY OTHER INFORMATION REQUIRED BY THE STATE BOARD CONCERNING THE POLITICAL DISBURSEMENTS AND DONATIONS OF THE PARTICIPATING ORGANIZATION.

(4) A PARTICIPATING ORGANIZATION REPORT SHALL COVER:

(I) FOR THE FIRST REPORT FILED BY A PARTICIPATING ORGANIZATION, THE PERIOD BEGINNING 2 YEARS BEFORE THE DATE THE REPORT IS FILED; AND

(II) FOR ANY SUBSEQUENT REPORTS FILED BY A PARTICIPATING ORGANIZATION, THE PERIOD AFTER THE CLOSING DATE OF THE PARTICIPATING ORGANIZATION'S PREVIOUS REPORT.

(D) (1) A PARTICIPATING ORGANIZATION IS NOT REQUIRED TO FILE ANY PARTICIPATING ORGANIZATION REPORTS IF THE PARTICIPATING ORGANIZATION PROVIDES A LINK ON THE HOMEPAGE OF ITS WEB SITE TO THE INFORMATION REQUIRED UNDER SUBSECTION (C)(3) OF THIS SECTION CONCERNING THE PARTICIPATING ORGANIZATION'S POLITICAL DISBURSEMENTS AND DONATIONS TO THE PARTICIPATING ORGANIZATION.

(2) A PARTICIPATING ORGANIZATION SHALL CONTINUALLY UPDATE THE INFORMATION REQUIRED UNDER PARAGRAPH (1) OF THIS SUBSECTION WITHIN 48 HOURS UNTIL THE END OF THE ELECTION CYCLE.

(E) THE TREASURER OR OTHER INDIVIDUAL DESIGNATED BY A PARTICIPATING ORGANIZATION TO FILE A REPORT REQUIRED UNDER THIS SECTION:

(1) SHALL SIGN EACH PARTICIPATING ORGANIZATION REPORT; AND

(2) IS RESPONSIBLE FOR FILING PARTICIPATING ORGANIZATION REPORTS IN FULL AND ACCURATE DETAIL.

(F) (1) WITHIN 48 HOURS AFTER A PARTICIPATING ORGANIZATION MAKES AGGREGATE POLITICAL DISBURSEMENTS OF \$50,000 OR MORE IN AN ELECTION CYCLE, THE PARTICIPATING ORGANIZATION SHALL IDENTIFY A REGISTERED AGENT LOCATED IN THE STATE FOR SERVICE OF PROCESS.

(2) A PARTICIPATING ORGANIZATION SHALL IDENTIFY A REGISTERED AGENT ON A FORM PRESCRIBED BY THE STATE BOARD.

(G) (1) A PARTICIPATING ORGANIZATION THAT FAILS TO PROVIDE ON A PARTICIPATING ORGANIZATION REPORT ALL OF THE INFORMATION REQUIRED BY THIS SECTION SHALL FILE AN AMENDED REPORT AS PROVIDED IN § 13-327(B) OF THIS SUBTITLE.

(2) IN ADDITION TO ANY OTHER SANCTION PROVIDED BY LAW, THE STATE BOARD MAY ASSESS A CIVIL PENALTY FOR FAILURE TO FILE PROPERLY A PARTICIPATING ORGANIZATION REPORT OR AN AMENDED PARTICIPATING ORGANIZATION REPORT IN AN AMOUNT NOT EXCEEDING THE GREATER OF:

(I) \$1,000 FOR EACH DAY OR PART OF A DAY THAT A PARTICIPATING ORGANIZATION REPORT OR AN AMENDED PARTICIPATING ORGANIZATION REPORT IS OVERDUE; OR

(II) 10% OF THE AMOUNT OF THE DONATIONS OR POLITICAL DISBURSEMENTS THAT WERE NOT REPORTED IN A TIMELY MANNER.

(3) A CIVIL PENALTY UNDER PARAGRAPH (2) OF THIS SUBSECTION SHALL BE:

(I) ASSESSED IN THE MANNER SPECIFIED IN § 13-604.1 OF THIS TITLE;

(II) DISTRIBUTED TO THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103 OF THIS ARTICLE; AND

(III) THE JOINT AND SEVERAL LIABILITY OF:

1. THE PARTICIPATING ORGANIZATION;

2. THE TREASURER OR OTHER INDIVIDUAL WHO SIGNS AND FILES THE REPORTS REQUIRED BY THIS SECTION FOR THE PARTICIPATING ORGANIZATION; AND

3. THE PERSON EXERCISING DIRECTION OR CONTROL OVER THE ACTIVITIES OF THE PARTICIPATING ORGANIZATION.

(4) A PARTICIPATING ORGANIZATION THAT FAILS TO FILE PROPERLY A PARTICIPATING ORGANIZATION REPORT OR AN AMENDED PARTICIPATING ORGANIZATION REPORT UNDER THIS SECTION MAY SEEK RELIEF FROM A PENALTY UNDER PARAGRAPH (2) OF THIS SUBSECTION FOR JUST CAUSE AS PROVIDED IN § 13-337 OF THIS SUBTITLE.

(H) IF A TREASURER OF A PARTICIPATING ORGANIZATION OR A PERSON EXERCISING DIRECTION OR CONTROL OVER THE ACTIVITIES OF A PARTICIPATING ORGANIZATION HAS FAILED TO PAY ANY CIVIL PENALTY OR LATE FEE UNDER THIS TITLE FOR WHICH THE INDIVIDUAL IS RESPONSIBLE, THE INDIVIDUAL MAY NOT:

(1) SERVE AS THE RESPONSIBLE OFFICER OF A POLITICAL COMMITTEE;

(2) SERVE IN ANY POSITION OF RESPONSIBILITY IN ANY OTHER ENTITY SUBJECT TO REGULATION UNDER THIS TITLE; OR

(3) ASSIST IN THE FORMATION OF A POLITICAL COMMITTEE OR ANY OTHER ENTITY SUBJECT TO REGULATION UNDER THIS TITLE.

(I) (1) A PARTICIPATING ORGANIZATION SUBJECT TO THIS SECTION SHALL KEEP DETAILED AND ACCURATE RECORDS OF:

(I) ALL POLITICAL DISBURSEMENTS MADE IN THE STATE OR AFFECTING A STATE ELECTION BY THE PARTICIPATING ORGANIZATION; AND

(II) ALL DONATIONS RECEIVED BY THE PARTICIPATING ORGANIZATION.

(2) RECORDS REQUIRED TO BE KEPT UNDER THIS SUBSECTION SHALL BE PRESERVED FOR 2 YEARS AFTER THE END OF THE ELECTION CYCLE IN WHICH THE PARTICIPATING ORGANIZATION MADE POLITICAL DISBURSEMENTS.

(J) THE STATE BOARD MAY ADOPT REGULATIONS AS NECESSARY TO IMPLEMENT THE REQUIREMENTS OF THIS SECTION.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.

Enacted under Article II, § 17(c) of the Maryland Constitution, May 27, 2017.