

1 AN ACT relating to campaign finance.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 121.015 is amended to read as follows:

4 As used in this chapter:

5 (1) "Registry" means the Kentucky Registry of Election Finance;

6 (2) "Election" means any primary, regular, or special election to fill vacancies
7 regardless of whether a candidate or slate of candidates is opposed or unopposed in
8 an election. Each primary, regular, or special election shall be considered a separate
9 election;

10 (3) "Committee" includes the following:

11 (a) "Campaign committee," which means one (1) or more persons who receive
12 contributions and make expenditures to support or oppose one (1) or more
13 specific candidates or slates of candidates for nomination or election to any
14 state, county, city, or district office, that is authorized by the candidate or slate
15 of candidates to receive contributions, make expenditures, and generally
16 conduct a campaign for the candidate or slate of candidates, but does not
17 include an entity established solely by a candidate which is managed solely by
18 a candidate and a campaign treasurer and whose name is generic in nature,
19 such as "Friends of (the candidate)," and does not reflect that other persons
20 have structured themselves as a committee, designated officers of the
21 committee, and assigned responsibilities and duties to each officer with the
22 purpose of managing a campaign to support or oppose a candidate in an
23 election;

24 (b) "Independent expenditure-only committee," which means one (1) or more
25 persons who receive unlimited contributions for the purpose of making only
26 independent expenditures to support or oppose one (1) or more specific
27 candidates or slates of candidates for nomination or election to any state,

1 county, city, or district office;

2 (c) "Caucus campaign committee," which means members of one (1) of the
3 following caucus groups who receive contributions and make expenditures to
4 support or oppose one (1) or more specific candidates or slates of candidates
5 for nomination or election, or a committee:

- 6 1. House Democratic caucus campaign committee;
- 7 2. House Republican caucus campaign committee;
- 8 3. Senate Democratic caucus campaign committee;
- 9 4. Senate Republican caucus campaign committee; or
- 10 5. Subdivisions of the state executive committee of a minor political party,
11 which serve the same function as the above-named committees, as
12 determined by regulations promulgated by the registry;

13 (d) "Political issues committee," which means three (3) or more persons joining
14 together to advocate or oppose a constitutional amendment or public question
15 which appears on the ballot if that committee receives or expends money in
16 excess of one thousand dollars (\$1,000);

17 (e) "Permanent committee," which means a group of individuals, including an
18 association, committee, or organization, other than a campaign committee,
19 independent expenditure-only committee, federally registered political
20 committee, political issues committee, inaugural committee, caucus campaign
21 committee, or party executive committee, which is established as, or intended
22 to be, a permanent organization having as a primary purpose expressly
23 advocating the election or defeat of one (1) or more clearly identified
24 candidates, slates of candidates, or political parties, which functions on a
25 regular basis throughout the year;

26 (f) An executive committee of a political party; and

27 (g) "Inaugural committee," which means one (1) or more persons who receive

1 contributions and make expenditures in support of inauguration activities for
2 any candidate or slate of candidates elected to any state, county, city, or
3 district office;

4 (4) "Contributing organization" means a group which merely contributes to candidates,
5 slates of candidates, campaign committees, caucus campaign committees, or
6 executive committees from time to time from funds derived solely from within the
7 group, and which does not solicit or receive funds from sources outside the group
8 itself. Any contributions made by the groups in excess of one hundred dollars
9 (\$100) shall be reported to the registry;

10 (5) "Testimonial affair" means an affair held in honor of a person who holds or who is
11 or was a candidate for nomination or election to a political office in this state
12 designed to raise funds for any purpose not charitable, religious, or educational;

13 (6) "Contribution" means any:

14 (a) Payment, distribution, loan, deposit, or gift of money or other thing of value,
15 to a candidate, his or her agent, a slate of candidates, its authorized agent, a
16 committee, or contributing organization. As used in this subsection, "loan"
17 shall include a guarantee, endorsement, or other form of security where the
18 risk of nonpayment rests with the surety, guarantor, or endorser, as well as
19 with a committee, contributing organization, candidate, slate of candidates, or
20 other primary obligor. No person shall become liable as surety, endorser, or
21 guarantor for any sum in any one (1) election which, when combined with all
22 other contributions the individual makes to a candidate, his or her agent, a
23 slate of candidates, its agent, a committee, or a contributing organization,
24 exceeds the contribution limits provided in KRS 121.150;

25 (b) Payment by any person other than the candidate, his or her authorized
26 treasurer, a slate of candidates, its authorized treasurer, a committee, or a
27 contributing organization, of compensation for the personal services of

1 another person which are rendered to a candidate, slate of candidates,
2 committee, or contributing organization, or for inauguration activities;

3 (c) Goods, advertising, or services with a value of more than one hundred dollars
4 (\$100) in the aggregate in any one (1) election which are furnished to a
5 candidate, slate of candidates, committee, or contributing organization or for
6 inauguration activities without charge, or at a rate which is less than the rate
7 normally charged for the goods or services; or

8 (d) Payment by any person other than a candidate, his or her authorized treasurer,
9 a slate of candidates, its authorized treasurer, a committee, or contributing
10 organization for any goods or services with a value of more than one hundred
11 dollars (\$100) in the aggregate in any one (1) election which are utilized by a
12 candidate, slate of candidates, committee, or contributing organization, or for
13 inauguration activities;

14 (7) Notwithstanding the foregoing meanings of "contribution," the word shall not be
15 construed to include:

16 (a) Services provided without compensation by individuals volunteering a portion
17 or all of their time on behalf of a candidate, a slate of candidates, committee,
18 or contributing organization;

19 (b) A loan of money by any financial institution doing business in Kentucky
20 made in accordance with applicable banking laws and regulations and in the
21 ordinary course of business; or

22 (c) An independent expenditure by any individual or permanent committee;

23 (8) "Candidate" means any person who has received contributions or made
24 expenditures, has appointed a campaign treasurer, or has given his or her consent
25 for any other person to receive contributions or make expenditures with a view to
26 bringing about his or her nomination or election to public office, except federal
27 office;

- 1 (9) "Slate of candidates" means:
- 2 (a) Between the time a certificate or petition of nomination has been filed for a
- 3 candidate for the office of Governor under KRS 118.365 and the time the
- 4 candidate designates a running mate for the office of Lieutenant Governor
- 5 under KRS 118.126, a slate of candidates consists of the candidate for the
- 6 office of Governor; and
- 7 (b) After that candidate has designated a running mate under KRS 118.126, that
- 8 same slate of candidates consists of that same candidate for the office of
- 9 Governor and the candidate's running mate for the office of Lieutenant
- 10 Governor. Unless the context requires otherwise, any provision of law that
- 11 applies to a candidate shall also apply to a slate of candidates;
- 12 (10) "Knowingly" means, with respect to conduct or to a circumstance described by a
- 13 statute defining an offense, that a person is aware or should have been aware that
- 14 his or her conduct is of that nature or that the circumstance exists;
- 15 (11) "Fundraiser" means an individual who directly solicits and secures contributions on
- 16 behalf of a candidate or slate of candidates for a statewide-elected state office or an
- 17 office in a jurisdiction with a population in excess of two hundred thousand
- 18 (200,000) residents;
- 19 (12) "Independent expenditure" means the expenditure of money or other things of value
- 20 for a communication which expressly advocates the election or defeat of a clearly
- 21 identified candidate or slate of candidates, and which is made without any
- 22 coordination, consultation, or cooperation with any candidate, slate of candidates,
- 23 campaign committee, or any authorized person acting on behalf of any of them, and
- 24 which is not made in concert with, or at the request or suggestion of any candidate,
- 25 slate of candidates, campaign committee, or any authorized person acting on behalf
- 26 of any of them;
- 27 (13) "Electronic reporting" means the use of technology, having electrical, digital,

1 magnetic, wireless, optical, electromagnetic, or similar capabilities, by which an
2 individual or other entity submits, compiles, or transmits campaign finance reports
3 to the registry, or by which the registry receives, stores, analyzes, or discloses the
4 reports;

5 (14) "Security procedure" means a procedure employed for the purpose of verifying that
6 an electronic signature, record, or performance is that of a specific person or for
7 detecting changes or errors in the information in an electronic record. The term
8 includes a procedure that requires the use of algorithms or other codes, identifying
9 words or numbers, encryption, or callback or other acknowledgment procedures;

10 (15) "Electronic signature" means an electronic sound, symbol, or process attached to or
11 logically associated with a record and executed or adopted by a person with the
12 intent to sign the record;

13 (16) "Filer" means any candidate, a slate of candidates, committee, or other individual or
14 entity required to submit financial disclosure reports to the registry;

15 (17) "Filer-side software" means software provided to or used by the filer that enables
16 transmittal of financial reports to the registry;

17 (18) "Form" means an online web page or an electronic document designed to capture,
18 validate, and submit data for processing to the registry, unless the context otherwise
19 prescribes;~~and~~

20 (19) "Reasonable cause" means an event, happening, or circumstance entirely beyond
21 the knowledge or control of the candidate, slate of candidates, or committee, which
22 has exercised due care and prudence in maintaining the records of the campaign or
23 committee pursuant to statute or administrative regulation;

24 **(20) "Directly" means acting alone;**

25 **(21) "Indirectly" means acting jointly with, through, or on behalf of any other**
26 **political issues committee, permanent committee, organization, person, or other**
27 **entity;**

1 (22) "Foreign national" means:

2 (a) An individual who is not a citizen or lawful permanent resident of the
3 United States;

4 (b) A government, political subdivision, or municipality of a foreign country;

5 (c) A foreign political party;

6 (d) Any entity, including but not limited to a partnership, association,
7 corporation, organization, or other combination of persons, that is
8 organized under the laws of or has its principal place of business in a
9 foreign country; or

10 (e) Any entity in the United States, including but not limited to a partnership,
11 association, corporation, or organization that is wholly or majority owned
12 by any foreign national, unless:

13 1. Any contribution or expenditure the entity makes derives entirely from
14 funds generated by the entity's United States operations; and

15 2. All decisions concerning the contribution or expenditure, except for
16 setting overall budget amounts, are made by individuals who are
17 United States citizens or permanent residents;

18 (23) "Ballot measure" means a question, other than the nomination or election of a
19 candidate for public office, which has been:

20 (a) Approved by a political subdivision or the General Assembly and is required
21 by law to be placed before the voters of the territory affected; or

22 (b) Initiated or referred by citizen petition as authorized by KRS 242.020 and
23 placed before the voters of the territory affected;

24 (24) "Person" means an individual, partnership, association, corporation,
25 organization, political committee, or any other combination or group of
26 individuals;

27 (25) "Preliminary activity" includes but is not limited to:

- 1 (a) Participating in focus groups;
- 2 (b) Making telephone calls;
- 3 (c) Traveling;
- 4 (d) Conducting polls; and
- 5 (e) Drafting ballot measure language;

6 (26) "Prohibited source" means any contribution from or expenditure by a foreign
7 national; and
8 (27) "Tax-exempt organization" means an organization described in 26 U.S.C. sec.
9 501(c) and exempt from federal taxation under 26 U.S.C. sec. 501(a). This
10 subsection shall not be construed to treat a political organization under 26 U.S.C.
11 sec. 527 as a tax-exempt organization for purposes of this chapter.

12 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO
13 READ AS FOLLOWS:

- 14 (1) Upon registering a political issues committee, the treasurer shall file an
15 accompanying certification that no preliminary activity was directly or indirectly
16 funded by a prohibited source.
- 17 (2) After a political issues committee has been registered, the committee shall not
18 knowingly or willfully receive, solicit, or accept contributions or expenditures that
19 are directly or indirectly funded by a prohibited source.
- 20 (3) A political issues committee shall affirm in its report that it has not knowingly or
21 willfully received, solicited, or accepted contributions or expenditures from a
22 prohibited source.
- 23 (4) Any person who makes an independent expenditure in support or opposition of a
24 ballot measure shall keep records of any contribution or independent expenditure
25 and retain those records for six (6) years following the date the contribution or
26 expenditure was made.
- 27 (5) A political issues committee that receives an independent expenditure or

1 contribution shall keep records of any contribution or independent expenditure
2 and retain those records for six (6) years following the date the contribution or
3 expenditure was received.

4 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO
5 READ AS FOLLOWS:

6 (1) Upon a political issues committee's receipt of a contribution, the treasurer shall
7 obtain from the donor an affirmation that the donor is not a foreign national and
8 has not knowingly or willfully accepted funds aggregating in excess of one
9 hundred thousand dollars (\$100,000) from a prohibited source during the four
10 (4) years immediately preceding the date the contribution was made.

11 (2) The treasurer of a political issues committee shall affirm in its report that the
12 donor associated with each contribution is not a foreign national and has not
13 knowingly or willfully received, solicited, or accepted, whether directly or
14 indirectly, contributions or expenditures aggregating in excess of one hundred
15 thousand dollars (\$100,000) from a prohibited source during the four (4) years
16 immediately preceding the date the contribution was made.

17 (3) Within forty-eight (48) hours of making an independent expenditure supporting
18 or opposing a ballot measure, the entity making the expenditure shall:

19 (a) Certify to the registry that it has not knowingly or willfully accepted funds
20 aggregating in excess of one hundred thousand dollars (\$100,000) from a
21 prohibited source for four (4) years immediately preceding the date the
22 expenditure was made, and that it will not do so through the remainder of
23 the calendar year in which the ballot measure will appear on the ballot; and

24 (b) Affirm in its report that it has not knowingly or willfully accepted funds
25 aggregating in excess of one hundred thousand dollars (\$100,000) from a
26 prohibited source during the four (4) years immediately preceding the date
27 the expenditure was made.

1 (4) Any determination that an entity required to file one (1) or more certifications
2 under subsection (1) or (3)(a) of this section has accepted funds aggregating in
3 excess of one hundred thousand dollars (\$100,000) from one (1) or more
4 prohibited sources during the four (4) years immediately preceding the date the
5 contribution or independent expenditure at issue was made shall create a
6 presumption that the entity has violated this section.

7 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO
8 READ AS FOLLOWS:

9 (1) A foreign national shall not, directly or indirectly:

10 (a) Make a donation, contribution, or expenditure in support or opposition of a
11 ballot measure;

12 (b) Solicit another person to make a donation, contribution, or expenditure to
13 influence a ballot measure; or

14 (c) Direct, dictate, control, or participate in another person's decision to
15 influence a ballot measure.

16 (2) Nothing in this section shall be deemed to create or eliminate any donor
17 disclosure rights or duties beyond those specifically enumerated in Section 6 of
18 this Act.

19 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO
20 READ AS FOLLOWS:

21 (1) The registry may bring a civil action to enforce Sections 2 and 3 of this Act and a
22 committee, person, or entity alleged to have violated Section 2 or 3 of this Act
23 shall be provided full opportunity of notice, discovery, and an opportunity to be
24 heard before being found liable for a violation of Section 2 or 3 of this Act.

25 (2) In all actions brought under subsection (1) of this section, the registry bears the
26 burden of proof and the action shall proceed as follows:

27 (a) Prior to discovery, the court shall set a hearing to determine whether there

1 is probable cause that a committee or person has violated Section 2 or 3 of
2 this Act;

3 **(b) If, after the hearing in paragraph (a) of this subsection, the court**
4 **determines that no probable cause exists to believe that a violation of**
5 **Section 2 or 3 of this Act has occurred, the court shall enter an order of**
6 **dismissal with prejudice;**

7 **(c) If, after the hearing in paragraph (a) of this subsection, the court**
8 **determines that probable cause does exist to believe that a violation of**
9 **Section 2 or 3 of this Act has occurred, the court shall enter an order to that**
10 **effect and the case shall proceed to trial on an expedited basis. Subject to**
11 **Section 6 of this Act, the entity alleged to have violated Section 2 or 3 of this**
12 **Act may, prior to the scheduling of trial, present evidence sufficient to rebut**
13 **the finding of probable cause by making an ex parte presentation of records**
14 **to the court for in camera review; and**

15 **(d) The losing party under paragraph (c) of this subsection has the right to:**

16 **1. An interlocutory expedited appeal; and**

17 **2. A stay of proceedings in the trial court.**

18 **(3) Within thirty (30) days of a finding that a committee has violated Section 2 or 3 of**
19 **this Act, the committee shall refund the contribution to the original contributor.**
20 **In the event of an appeal, the contribution shall be placed in escrow, after which**
21 **the funds shall be disbursed in accordance with the final order. If the committee**
22 **is unable to return the funds, the directors, officers, or executive members of the**
23 **committee shall be liable in their personal capacity, jointly and severally, for the**
24 **refund of said funds.**

25 **(4) Within thirty (30) days of a finding that any person or committee required to**
26 **report independent expenditures has violated Section 2 or 3 of this Act, the entity**
27 **making the independent expenditure shall disgorge funds in an amount equal to**

1 the reported cost of the independent expenditure to the registry. If the entity is
2 unable to disgorge the requisite funds, the directors, officers, or executive
3 members of the entity shall be liable in their personal capacities, jointly and
4 severally, for the payment of the amount due. In the event of an appeal, the funds
5 subject to disgorgement shall be placed in escrow, after which they shall be
6 disbursed in accordance with the final order.

7 (5) If any lobbyist, as defined in KRS 11A.010, violates Section 2 or 3 of this Act, the
8 lobbyist's registration may be revoked or suspended and the lobbyist may be
9 enjoined from receiving compensation or making expenditures for lobbying.

10 (6) If the registry prevails in an action brought under this section, the court may
11 award:

12 (a) Injunctive relief sufficient to prevent the defendant from violating or
13 engaging in acts that aid or abet violations of Sections 2 and 3 of this Act;
14 and

15 (b) Statutory damages up to two (2) times the amount of the prohibited
16 contribution or expenditure.

17 (7) In addition to the penalties in subsection (6) of this section, and any other
18 remedies provided by law, if the court finds a knowing or willful violation of
19 Section 2 or 3 of this Act, the court may assess a penalty of up to three (3) times
20 the statutory damages.

21 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 121 IS CREATED TO
22 READ AS FOLLOWS:

23 (1) A lawful donor to a tax-exempt organization possesses a right of privacy in his or
24 her donations. Any investigation of an alleged violation of Section 2 or 3 of this
25 Act, or lawful court order in an action brought under Section 5 of this Act, shall
26 shield the identity of lawful donors as far as possible. No state or local
27 governmental entity, court, or officer of the court shall collect or require the

1 submission of information on the identity of any donor to a tax-exempt
2 organization other than those directly related to an alleged violation of Section 2
3 or 3 of this Act.

4 (2) No state or local governmental entity, court, or officer of the court shall disclose
5 to the public, or to another government official not directly involved in the
6 investigation, information revealing the identity of any donor to a tax-exempt
7 organization, unless the information is regarding the identity of a donor that
8 engaged in conduct prohibited by Section 2 or 3 of this Act after a final
9 determination has been made that the donor violated Section 2 or 3 of this Act.

10 (3) Any state or local governmental entity, court, or officer of the court who
11 knowingly or willfully violates subsection (2) of this section shall be guilty of a
12 Class A misdemeanor.

13 ➔Section 7. KRS 121.190 is amended to read as follows:

14 (1) All newspaper or magazine advertising, posters, circulars, billboards, handbills,
15 sample ballots, and paid-for television or radio announcements which expressly
16 advocate the election or defeat of a clearly identified candidate, slate of candidates,
17 or group of candidates for nomination or election to any public office, or expressly
18 advocate or oppose a ballot measure, shall be identified by the words "paid for by"
19 followed by the name and address of the individual or committee which paid for the
20 communication; except that if paid for by a candidate, slate of candidates, or
21 campaign committee, it shall be identified only by the words "paid for by" followed
22 by the name of the candidate, slate of candidates, or campaign committee,
23 whichever is applicable. For television and radio broadcasts, compliance with
24 Federal Communications Commission regulations regarding sponsored programs
25 and broadcasts by candidates for public office shall be considered compliance with
26 this section.

27 (2) The disclaimer described in subsection (1) of this section shall appear and be

1 presented in a clear and conspicuous manner to give the reader or observer adequate
2 notice of the identity of the purchaser of the communication. A disclaimer does not
3 comply with this section if the disclaimer is difficult to read or if the placement of
4 the disclaimer is easily overlooked.

5 (3) The provisions of subsection (1) of this section shall not apply to:

6 (a) Any news articles, editorial endorsements, opinion, or commentary writings,
7 or letter to the editor printed in a newspaper, magazine, flyer, pamphlet, or
8 other periodical not owned or controlled by a candidate or committee;

9 (b) Any editorial endorsements or opinions aired by a broadcast facility not
10 owned or controlled by a candidate or committee;

11 (c) Any communication by a person made in the regular course and scope of the
12 person's business or any communication made by a membership organization
13 solely to members of the organization and the members' families; and

14 (d) Any communication that refers to any candidate only as part of the popular
15 name of a bill or statute.

16 (4) (a) A person shall not use, cause or permit to be used, or continue to use any
17 published, distributed, or broadcast political advertising containing express
18 advocacy that the person knows does not include the disclosure required by
19 subsection (1) of this section. A person is presumed to know that the use of
20 political advertising is prohibited by this subsection if the registry notifies the
21 person in writing that the use is prohibited.

22 (b) A person who learns that political advertising signs that have been distributed
23 do not include the disclosure required by subsection (1) of this section or
24 include a disclosure that does not comply with subsection (1) of this section
25 does not commit a violation of this subsection if the person makes a good-
26 faith attempt to remove or correct those signs within forty-eight (48) hours
27 and provides the registry with proof of correction.

- 1 (5) The management of newspapers and magazines shall keep a one (1) year record of
2 all statements, articles, or advertisements referred to in subsection (1) of this
3 section, that appear in their publications, however, nothing in subsection (1) of this
4 section shall be construed to require editors or editorial writers of newspapers and
5 magazines to identify themselves in the manner therein required with any article or
6 editorial written by them as part of their duties as an employee or employer.