

Select Year:  

## The 2011 Florida Statutes

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[Title IX](#)  
ELECTORS AND ELECTIONS

[Chapter 99](#)  
CANDIDATES

[View Entire Chapter](#)

### CHAPTER 99 CANDIDATES

- 99.012 Restrictions on individuals qualifying for public office.
- 99.021 Form of candidate oath.
- 99.061 Method of qualifying for nomination or election to federal, state, county, or district office.
- 99.0615 Write-in candidate residency requirements.
- 99.063 Candidates for Governor and Lieutenant Governor.
- 99.081 United States Senators elected in general election.
- 99.091 Representatives to Congress.
- 99.092 Qualifying fee of candidate; notification of Department of State.
- 99.093 Municipal candidates; election assessment.
- 99.095 Petition process in lieu of a qualifying fee and party assessment.
- 99.0955 Candidates with no party affiliation; name on general election ballot.
- 99.096 Minor political party candidates; names on ballot.
- 99.09651 Signature requirements for ballot position in year of apportionment.
- 99.097 Verification of signatures on petitions.
- 99.103 Department of State to remit part of filing fees and party assessments of candidates to state executive committee.
- 99.121 Department of State to certify nominations to supervisors of elections.

#### 99.012 Restrictions on individuals qualifying for public office.—

(1) As used in this section:

(a) “Officer” means a person, whether elected or appointed, who has the authority to exercise the sovereign power of the state pertaining to an office recognized under the State Constitution or laws of the state. With respect to a municipality, the term “officer” means a person, whether elected or appointed, who has the authority to exercise municipal power as provided by the State Constitution, state laws, or municipal charter.

(b) “Subordinate officer” means a person who has been delegated the authority to exercise the sovereign power of the state by an officer. With respect to a municipality, subordinate officer means a person who has been delegated the authority to exercise municipal power by an officer.

(2) No person may qualify as a candidate for more than one public office, whether federal, state, district, county, or municipal, if the terms or any part thereof run concurrently with each other.

(3)(a) No officer may qualify as a candidate for another state, district, county, or municipal public office if the terms or any part thereof run concurrently with each other without resigning from the

office he or she presently holds.

(b) The resignation is irrevocable.

(c) The written resignation must be submitted at least 10 days prior to the first day of qualifying for the office he or she intends to seek.

(d) The resignation must be effective no later than the earlier of the following dates:

1. The date the officer would take office, if elected; or
2. The date the officer's successor is required to take office.

(e)1. An elected district, county, or municipal officer must submit his or her resignation to the officer before whom he or she qualified for the office he or she holds, with a copy to the Governor and the Department of State.

2. An appointed district, county, or municipal officer must submit his or her resignation to the officer or authority which appointed him or her to the office he or she holds, with a copy to the Governor and the Department of State.

3. All other officers must submit their resignations to the Governor with a copy to the Department of State.

(f)1. With regard to an elective office, the resignation creates a vacancy in office to be filled by election. Persons may qualify as candidates for nomination and election as if the public officer's term were otherwise scheduled to expire.

2. With regard to an elective charter county office or elective municipal office, the vacancy created by the officer's resignation may be filled for that portion of the officer's unexpired term in a manner provided by the respective charter. The office is deemed vacant upon the effective date of the resignation submitted by the official in his or her letter of resignation.

(g) Any officer who submits his or her resignation, effective immediately or effective on a date prior to the date of his or her qualifying for office, may then qualify for office as a nonofficeholder, and the provisions of this subsection do not apply.

(4) A person who is a subordinate officer, deputy sheriff, or police officer must resign effective upon qualifying pursuant to this chapter if the person is seeking to qualify for a public office that is currently held by an officer who has authority to appoint, employ, promote, or otherwise supervise that person and who has qualified as a candidate for reelection to that office.

(5) If an order of a court that has become final determines that a person did not comply with this section, the person shall not be qualified as a candidate for election and his or her name may not appear on the ballot.

(6) This section does not apply to:

- (a) Political party offices.
- (b) Persons serving without salary as members of an appointive board or authority.

(7) Nothing contained in subsection (3) relates to persons holding any federal office or seeking the office of President or Vice President.

History.—s. 1, ch. 63-269; s. 2, ch. 65-378; s. 1, ch. 70-80; s. 10, ch. 71-373; s. 1, ch. 74-76; s. 3, ch. 75-196; s. 1, ch. 79-391; s. 47, ch. 81-259; s. 1, ch. 83-15; s. 28, ch. 84-302; s. 31, ch. 91-107; s. 534, ch. 95-147; s. 1, ch. 99-146; s. 1, ch. 2000-274; s. 14, ch. 2007-30; s. 14, ch. 2008-4; s. 9, ch. 2008-95; s. 12, ch. 2011-40.

#### 99.021 Form of candidate oath.—

(1)(a)1. Each candidate, whether a party candidate, a candidate with no party affiliation, or a write-in candidate, in order to qualify for nomination or election to any office other than a judicial office as defined in chapter 105 or a federal office, shall take and subscribe to an oath or affirmation in

writing. A copy of the oath or affirmation shall be made available to the candidate by the officer before whom such candidate seeks to qualify and shall be substantially in the following form:

State of Florida

County of

Before me, an officer authorized to administer oaths, personally appeared (please print name as you wish it to appear on the ballot), to me well known, who, being sworn, says that he or she is a candidate for the office of ; that he or she is a qualified elector of County, Florida; that he or she is qualified under the Constitution and the laws of Florida to hold the office to which he or she desires to be nominated or elected; that he or she has qualified for no other public office in the state, the term of which office or any part thereof runs concurrent with that of the office he or she seeks; that he or she has resigned from any office from which he or she is required to resign pursuant to s. 99.012, Florida Statutes; and that he or she will support the Constitution of the United States and the Constitution of the State of Florida.

(Signature of candidate)

(Address)

Sworn to and subscribed before me this day of , (year), at County, Florida.

(Signature and title of officer administering oath)

2. Each candidate for federal office, whether a party candidate, a candidate with no party affiliation, or a write-in candidate, in order to qualify for nomination or election to office shall take and subscribe to an oath or affirmation in writing. A copy of the oath or affirmation shall be made available to the candidate by the officer before whom such candidate seeks to qualify and shall be substantially in the following form:

State of Florida

County of

Before me, an officer authorized to administer oaths, personally appeared (please print name as you wish it to appear on the ballot), to me well known, who, being sworn, says that he or she is a candidate for the office of ; that he or she is qualified under the Constitution and laws of the United States to hold the office to which he or she desires to be nominated or elected; that he or she has qualified for no other public office in the state, the term of which office or any part thereof runs concurrent with that of the office he or she seeks; and that he or she will support the Constitution of the United States.

(Signature of candidate)

(Address)

Sworn to and subscribed before me this day of , (year), at County, Florida.

(Signature and title of officer administering oath)

(b) In addition, any person seeking to qualify for nomination as a candidate of any political party shall, at the time of subscribing to the oath or affirmation, state in writing:

1. The party of which the person is a member.
2. That the person has not been a registered member of any other political party for 365 days before the beginning of qualifying preceding the general election for which the person seeks to qualify.
3. That the person has paid the assessment levied against him or her, if any, as a candidate for said office by the executive committee of the party of which he or she is a member.

(c) The officer before whom such person qualifies shall certify the name of such person to the supervisor of elections in each county affected by such candidacy so that the name of such person may be printed on the ballot. Each person seeking election as a write-in candidate shall subscribe to the oath prescribed in this section in order to be entitled to have write-in ballots cast for him or her counted.

(2) The provisions of subsection (1) relating to the oath required of candidates, and the form of oath prescribed, shall apply with equal force and effect to, and shall be the oath required of, a candidate for election to a political party executive committee office, as provided by law. The requirements set forth in this section shall also apply to any person filling a vacancy on a political party executive committee.

(3) This section does not apply to a person who seeks to qualify for election pursuant to ss. 103.021 and 103.101.

History.—ss. 22, 23, ch. 6469, 1913; RGS 326, 327; CGL 383, 384; s. 3, ch. 19663, 1939; s. 3, ch. 26870, 1951; s. 10, ch. 28156, 1953; s. 1, ch. 57-742; s. 1, ch. 61-128; s. 2, ch. 63-269; s. 1, ch. 63-66; s. 1, ch. 65-376; s. 1, ch. 67-149; s. 2, ch. 70-269; s. 19, ch. 71-355; s. 6, ch. 77-175; s. 3, ch. 79-365; s. 27, ch. 79-400; s. 2, ch. 81-105; s. 3, ch. 86-134; s. 535, ch. 95-147; s. 7, ch. 99-6; s. 8, ch. 99-318; s. 15, ch. 2007-30; s. 10, ch. 2008-95; s. 13, ch. 2011-40.

Note.—Former ss. 102.29, 102.30.

#### 99.061 Method of qualifying for nomination or election to federal, state, county, or district office.—

(1) The provisions of any special act to the contrary notwithstanding, each person seeking to qualify for nomination or election to a federal, state, or multicounty district office, other than election to a judicial office as defined in chapter 105 or the office of school board member, shall file his or her qualification papers with, and pay the qualifying fee, which shall consist of the filing fee and election assessment, and party assessment, if any has been levied, to, the Department of State, or qualify by the petition process pursuant to s. 99.095 with the Department of State, at any time after noon of the 1st day for qualifying, which shall be as follows: the 120th day prior to the primary election, but not later than noon of the 116th day prior to the date of the primary election, for persons seeking to qualify for nomination or election to federal office or to the office of the state attorney or the public defender; and noon of the 71st day prior to the primary election, but not later than noon of the 67th day prior to the date of the primary election, for persons seeking to qualify for nomination or election to a state or multicounty district office, other than the office of the state attorney or the public defender.

(2) The provisions of any special act to the contrary notwithstanding, each person seeking to qualify for nomination or election to a county office, or district office not covered by subsection (1), shall file his or her qualification papers with, and pay the qualifying fee, which shall consist of the filing fee and election assessment, and party assessment, if any has been levied, to, the supervisor of elections of the county, or shall qualify by the petition process pursuant to s. 99.095 with the supervisor of elections, at any time after noon of the 1st day for qualifying, which shall be the 71st day prior to the primary election, but not later than noon of the 67th day prior to the date of the primary election. Within 30 days after the closing of qualifying time, the supervisor of elections shall remit to the secretary of the state executive committee of the political party to which the candidate belongs the amount of the filing fee, two-thirds of which shall be used to promote the candidacy of candidates for county offices and the candidacy of members of the Legislature.

(3) Notwithstanding the provisions of any special act to the contrary, each person seeking to qualify for election to a special district office shall qualify between noon of the 71st day prior to the primary election and noon of the 67th day prior to the date of the primary election. Candidates for single-county special districts shall qualify with the supervisor of elections in the county in which the district is

located. If the district is a multicounty district, candidates shall qualify with the Department of State. All special district candidates shall qualify by paying a filing fee of \$25 or qualify by the petition process pursuant to s. 99.095. Notwithstanding s. 106.021, a candidate who does not collect contributions and whose only expense is the filing fee or signature verification fee is not required to appoint a campaign treasurer or designate a primary campaign depository.

(4)(a) Each person seeking to qualify for election to office as a write-in candidate shall file his or her qualification papers with the respective qualifying officer at any time after noon of the 1st day for qualifying, but not later than noon of the last day of the qualifying period for the office sought.

(b) Any person who is seeking election as a write-in candidate shall not be required to pay a filing fee, election assessment, or party assessment. A write-in candidate is not entitled to have his or her name printed on any ballot; however, space for the write-in candidate's name to be written in must be provided on the general election ballot. A person may not qualify as a write-in candidate if the person has also otherwise qualified for nomination or election to such office.

(5) At the time of qualifying for office, each candidate for a constitutional office shall file a full and public disclosure of financial interests pursuant to s. 8, Art. II of the State Constitution, which must be verified under oath or affirmation pursuant to s. 92.525(1)(a), and a candidate for any other office, including local elective office, shall file a statement of financial interests pursuant to s. 112.3145.

(6) The Department of State shall certify to the supervisor of elections, within 7 days after the closing date for qualifying, the names of all duly qualified candidates for nomination or election who have qualified with the Department of State.

(7)(a) In order for a candidate to be qualified, the following items must be received by the filing officer by the end of the qualifying period:

1. A properly executed check drawn upon the candidate's campaign account payable to the person or entity as prescribed by the filing officer in an amount not less than the fee required by s. 99.092, unless the candidate obtained the required number of signatures on petitions pursuant to s. 99.095. The filing fee for a special district candidate is not required to be drawn upon the candidate's campaign account. If a candidate's check is returned by the bank for any reason, the filing officer shall immediately notify the candidate and the candidate shall have until the end of qualifying to pay the fee with a cashier's check purchased from funds of the campaign account. Failure to pay the fee as provided in this subparagraph shall disqualify the candidate.

2. The candidate's oath required by s. 99.021, which must contain the name of the candidate as it is to appear on the ballot; the office sought, including the district or group number if applicable; and the signature of the candidate, which must be verified under oath or affirmation pursuant to s. 92.525(1)(a).

3. If the office sought is partisan, the written statement of political party affiliation required by s. 99.021(1)(b).

4. The completed form for the appointment of campaign treasurer and designation of campaign depository, as required by s. 106.021.

5. The full and public disclosure or statement of financial interests required by subsection (5). A public officer who has filed the full and public disclosure or statement of financial interests with the Commission on Ethics or the supervisor of elections prior to qualifying for office may file a copy of that disclosure at the time of qualifying.

(b) If the filing officer receives qualifying papers during the qualifying period prescribed in this section which do not include all items as required by paragraph (a) prior to the last day of qualifying,

the filing officer shall make a reasonable effort to notify the candidate of the missing or incomplete items and shall inform the candidate that all required items must be received by the close of qualifying. A candidate's name as it is to appear on the ballot may not be changed after the end of qualifying.

(c) The filing officer performs a ministerial function in reviewing qualifying papers. In determining whether a candidate is qualified, the filing officer shall review the qualifying papers to determine whether all items required by paragraph (a) have been properly filed and whether each item is complete on its face, including whether items that must be verified have been properly verified pursuant to s. 92.525(1)(a). The filing officer may not determine whether the contents of the qualifying papers are accurate.

(8) Notwithstanding the qualifying period prescribed in this section, a qualifying office may accept and hold qualifying papers submitted not earlier than 14 days prior to the beginning of the qualifying period, to be processed and filed during the qualifying period.

(9) Notwithstanding the qualifying period prescribed by this section, in each year in which the Legislature apportions the state, the qualifying period for persons seeking to qualify for nomination or election to federal office shall be between noon of the 71st day prior to the primary election, but not later than noon of the 67th day prior to the primary election.

(10) The Department of State may prescribe by rule requirements for filing papers to qualify as a candidate under this section.

(11) The decision of the filing officer concerning whether a candidate is qualified is exempt from the provisions of chapter 120.

History.—ss. 25, 26, ch. 6469, 1913; RGS 329, 330; CGL 386, 387; ss. 4, 5, ch. 13761, 1929; s. 1, ch. 16990, 1935; CGL 1936 Supp. 386; ss. 1, chs. 19007, 19008, 19009, 1939; CGL 1940 Supp. 4769(3); s. 1, ch. 20619, 1941; s. 1, ch. 21851, 1943; s. 1, ch. 23006, 1945; s. 1, ch. 24163, 1947; s. 3, ch. 26870, 1951; s. 11, ch. 28156, 1953; s. 4, ch. 29936, 1955; s. 10, ch. 57-1; s. 1, ch. 59-84; s. 1, ch. 61-373 and s. 4, ch. 61-530; s. 1, ch. 63-502; s. 7, ch. 65-378; s. 2, ch. 67-531; ss. 10, 35, ch. 69-106; s. 5, ch. 69-281; s. 1, ch. 69-300; s. 1, ch. 70-42; s. 1, ch. 70-93; s. 1, ch. 70-439; s. 6, ch. 77-175; s. 1, ch. 78-188; s. 3, ch. 81-105; s. 2, ch. 83-15; s. 2, ch. 83-25; s. 1, ch. 83-251; s. 29, ch. 84-302; s. 1, ch. 86-7; s. 6, ch. 89-338; s. 8, ch. 90-315; s. 32, ch. 91-107; s. 536, ch. 95-147; s. 1, ch. 95-156; s. 9, ch. 99-318; s. 9, ch. 99-326; s. 3, ch. 2001-75; s. 11, ch. 2005-277; s. 51, ch. 2005-278; s. 7, ch. 2005-286; s. 16, ch. 2007-30; s. 14, ch. 2011-40.

Note.—Former ss. 102.32, 102.33, 102.351, 102.36, 102.66, 102.69.

**99.0615** Write-in candidate residency requirements.—At the time of qualification, all write-in candidates must reside within the district represented by the office sought.

History.—s. 56, ch. 2007-30.

**99.063** Candidates for Governor and Lieutenant Governor.—

(1) No later than 5 p.m. of the 9th day following the primary election, each candidate for Governor shall designate a Lieutenant Governor as a running mate. Such designation must be made in writing to the Department of State.

(2) No later than 5 p.m. of the 9th day following the primary election, each designated candidate for Lieutenant Governor shall file with the Department of State:

(a) The candidate's oath required by s. 99.021, which must contain the name of the candidate as it is to appear on the ballot; the office sought; and the signature of the candidate, which must be verified under oath or affirmation pursuant to s. 92.525(1)(a).

(b) If the office sought is partisan, the written statement of political party affiliation required by s. 99.021(1)(b).

(c) The full and public disclosure of financial interests pursuant to s. 8, Art. II of the State

Constitution. A public officer who has filed the full and public disclosure with the Commission on Ethics prior to qualifying for office may file a copy of that disclosure at the time of qualifying.

(3) A designated candidate for Lieutenant Governor is not required to pay a separate qualifying fee or obtain signatures on petitions. Ballot position obtained by the candidate for Governor entitles the designated candidate for Lieutenant Governor, upon receipt by the Department of State of the qualifying papers required by subsection (2), to have his or her name placed on the ballot for the joint candidacy.

(4) In order to have the name of the candidate for Lieutenant Governor printed on the primary election ballot, a candidate for Governor participating in the primary must designate the candidate for Lieutenant Governor, and the designated candidate must qualify no later than the end of the qualifying period specified in s. 99.061. If the candidate for Lieutenant Governor has not been designated and has not qualified by the end of the qualifying period specified in s. 99.061, the phrase "Not Yet Designated" must be included in lieu of the candidate's name on the primary election ballot.

(5) Failure of the Lieutenant Governor candidate to be designated and qualified by the time specified in subsection (2) shall result in forfeiture of ballot position for the candidate for Governor for the general election.

History.—s. 1, ch. 99-140; s. 45, ch. 2001-40; s. 12, ch. 2005-277; s. 8, ch. 2005-286; s. 15, ch. 2011-40.

**99.081 United States Senators elected in general election.**—United States Senators from Florida shall be elected at the general election held preceding the expiration of the present term of office, and such election shall conform as nearly as practicable to the methods provided for the election of state officers.

History.—s. 3, ch. 26870, 1951; s. 6, ch. 77-175; s. 7, ch. 89-338.

Note.—Former s. 106.01.

**99.091 Representatives to Congress.**—

(1) A Representative to Congress shall be elected in and for each congressional district at each general election.

(2) When Florida is entitled to additional representatives according to the last census, representatives shall be elected from the state at large and at large thereafter until the state is redistricted by the Legislature.

History.—ss. 2, 3, ch. 3879, 1889; RS 157; s. 4, ch. 4328, 1895; s. 3, ch. 4537, 1897; GS 174; RGS 218; CGL 253; s. 2, ch. 25383, 1949; s. 3, ch. 26870, 1951; s. 6, ch. 77-175.

Note.—Former s. 98.07.

**99.092 Qualifying fee of candidate; notification of Department of State.**—

(1) Each person seeking to qualify for nomination or election to any office, except a person seeking to qualify by the petition process pursuant to s. 99.095 and except a person seeking to qualify as a write-in candidate, shall pay a qualifying fee, which shall consist of a filing fee and election assessment, to the officer with whom the person qualifies, and any party assessment levied, and shall attach the original or signed duplicate of the receipt for his or her party assessment or pay the same, in accordance with the provisions of s. 103.121, at the time of filing his or her other qualifying papers. The amount of the filing fee is 3 percent of the annual salary of the office. The amount of the election assessment is 1 percent of the annual salary of the office sought. The election assessment shall be transferred to the Elections Commission Trust Fund. The amount of the party assessment is 2 percent of the annual salary. The annual salary of the office for purposes of computing the filing fee, election assessment, and party

assessment shall be computed by multiplying 12 times the monthly salary, excluding any special qualification pay, authorized for such office as of July 1 immediately preceding the first day of qualifying. No qualifying fee shall be returned to the candidate unless the candidate withdraws his or her candidacy before the last date to qualify. If a candidate dies prior to an election and has not withdrawn his or her candidacy before the last date to qualify, the candidate's qualifying fee shall be returned to his or her designated beneficiary, and, if the filing fee or any portion thereof has been transferred to the political party of the candidate, the Secretary of State shall direct the party to return that portion to the designated beneficiary of the candidate.

(2) The supervisor of elections shall, immediately after the last day for qualifying, submit to the Department of State a list containing the names, party affiliations, and addresses of all candidates and the offices for which they qualified.

History.—s. 24, ch. 6469, 1913; RGS 328; CGL 385; s. 3, ch. 26870, 1951; s. 12, ch. 29934, 1955; s. 4, ch. 65-378; s. 1, ch. 67-531; ss. 10, 35, ch. 69-106; s. 6, ch. 69-281; s. 1, ch. 74-119; s. 1, ch. 75-123; s. 1, ch. 75-247; s. 6, ch. 77-175; s. 28, ch. 79-400; s. 4, ch. 81-105; s. 1, ch. 83-242; s. 8, ch. 89-338; s. 1, ch. 91-107; s. 537, ch. 95-147; s. 11, ch. 97-13; s. 2, ch. 99-140; s. 10, ch. 99-318; s. 13, ch. 2005-277; s. 2, ch. 2010-16; s. 16, ch. 2011-40.

Note.—Former ss. 102.31, 99.031.

#### 99.093 Municipal candidates; election assessment.—

(1) Each person seeking to qualify for nomination or election to a municipal office shall pay, at the time of qualifying for office, an election assessment. The election assessment shall be an amount equal to 1 percent of the annual salary of the office sought. Within 30 days after the close of qualifying, the qualifying officer shall forward all assessments collected pursuant to this section to the Florida Elections Commission for deposit in the Elections Commission Trust Fund.

(2) Any person seeking to qualify for nomination or election to a municipal office who is unable to pay the election assessment without imposing an undue burden on personal resources or on resources otherwise available to him or her shall, upon written certification of such inability given under oath to the qualifying officer, be exempt from paying the election assessment.

History.—s. 9, ch. 89-338; s. 2, ch. 91-107; s. 538, ch. 95-147; s. 12, ch. 97-13; s. 3, ch. 2010-16; s. 17, ch. 2011-40.

#### 99.095 Petition process in lieu of a qualifying fee and party assessment.—

(1) A person who seeks to qualify as a candidate for any office and who meets the petition requirements of this section is not required to pay the qualifying fee or party assessment required by this chapter.

(2)(a) Except as provided in paragraph (b), a candidate must obtain the number of signatures of voters in the geographical area represented by the office sought equal to at least 1 percent of the total number of registered voters of that geographical area, as shown by the compilation by the department for the immediately preceding general election. Signatures may not be obtained until the candidate has filed the appointment of campaign treasurer and designation of campaign depository pursuant to s. 106.021 and are valid only for the qualifying period immediately following such filings.

(b) A candidate for a special district office shall obtain 25 signatures of voters in the geographical area represented by the office sought.

(c) The format of the petition shall be prescribed by the division and shall be used by candidates to reproduce petitions for circulation. If the candidate is running for an office that requires a group or district designation, the petition must indicate that designation and, if it does not, the signatures are not valid. A separate petition is required for each candidate.

(d) In a year of apportionment, any candidate for county or district office seeking ballot position by the petition process may obtain the required number of signatures from any registered voter in the respective county, regardless of district boundaries. The candidate shall obtain at least the number of signatures equal to 1 percent of the total number of registered voters, as shown by a compilation by the department for the immediately preceding general election, divided by the total number of districts of the office involved.

(3) Each petition must be submitted before noon of the 28th day preceding the first day of the qualifying period for the office sought to the supervisor of elections of the county in which such petition was circulated. Each supervisor shall check the signatures on the petitions to verify their status as voters in the county, district, or other geographical area represented by the office sought. No later than the 7th day before the first day of the qualifying period, the supervisor shall certify the number of valid signatures.

(4)(a) Certifications for candidates for federal, state, multicounty district, or multicounty special district office shall be submitted to the division no later than the 7th day before the first day of the qualifying period for the office sought. The division shall determine whether the required number of signatures has been obtained and shall notify the candidate.

(b) For candidates for county, district, or special district office not covered by paragraph (a), the supervisor shall determine whether the required number of signatures has been obtained and shall notify the candidate.

(5) If the required number of signatures has been obtained, the candidate is eligible to qualify pursuant to s. 99.061.

History.—s. 2, ch. 74-119; s. 6, ch. 77-175; s. 29, ch. 79-400; s. 10, ch. 89-338; s. 9, ch. 90-315; s. 539, ch. 95-147; s. 3, ch. 99-140; s. 1, ch. 99-318; s. 14, ch. 2005-277; s. 9, ch. 2005-286; s. 17, ch. 2007-30; s. 11, ch. 2008-95; s. 18, ch. 2011-40.

#### **99.0955 Candidates with no party affiliation; name on general election ballot.—**

(1) Each person seeking to qualify for election as a candidate with no party affiliation shall file his or her qualifying papers and pay the qualifying fee or qualify by the petition process pursuant to s. 99.095 with the officer and during the times and under the circumstances prescribed in s. 99.061. Upon qualifying, the candidate is entitled to have his or her name placed on the general election ballot.

(2) The qualifying fee for candidates with no party affiliation shall consist of a filing fee and an election assessment as prescribed in s. 99.092. Filing fees paid to the Department of State shall be deposited into the General Revenue Fund of the state. Filing fees paid to the supervisor of elections shall be deposited into the general revenue fund of the county.

History.—s. 6, ch. 70-269; s. 1, ch. 70-439; s. 3, ch. 74-119; s. 7, ch. 77-175; s. 2, ch. 78-188; s. 11, ch. 89-338; s. 10, ch. 90-315; s. 540, ch. 95-147; s. 13, ch. 95-280; s. 4, ch. 99-140; s. 2, ch. 99-318; s. 15, ch. 2005-277.

Note.—Former s. 99.152.

**99.096 Minor political party candidates; names on ballot.—**Each person seeking to qualify for election as a candidate of a minor political party shall file his or her qualifying papers with, and pay the qualifying fee and, if one has been levied, the party assessment, or qualify by the petition process pursuant to s. 99.095, with the officer and at the times and under the circumstances provided in s. 99.061.

History.—s. 5, ch. 70-269; s. 1, ch. 70-439; s. 4, ch. 74-119; s. 8, ch. 77-175; s. 3, ch. 78-188; s. 12, ch. 89-338; s. 1, ch. 90-229; s. 11, ch. 90-315; s. 541, ch. 95-147; s. 3, ch. 99-318; s. 16, ch. 2005-277; s. 18, ch. 2007-30.

Note.—Former s. 101.261.

**99.09651 Signature requirements for ballot position in year of apportionment.—**

(1) In a year of apportionment, any candidate for representative to Congress, state Senate, or state House of Representatives seeking ballot position by the petition process prescribed in s. 99.095 shall obtain at least the number of signatures equal to one-third of 1 percent of the ideal population for the district of the office being sought.

(2) For the purposes of this section, “ideal population” means the total population of the state based upon the most recent decennial census divided by the number of districts for representative to Congress, state Senate, or state House of Representatives. For the purposes of this section, ideal population shall be calculated as of July 1 of the year prior to apportionment. The ideal population for a state Senate district and a state representative district shall be calculated by dividing the total population of the state by 40 for a state Senate district and by dividing by 120 for a state representative district.

(3) Signatures may be obtained from any registered voter in Florida regardless of party affiliation or district boundaries.

(4) Petitions shall state the name of the office the candidate is seeking, but shall not include a district number.

(5) Except as otherwise provided in this section, all requirements and procedures relating to the petition process shall conform to the requirements and procedures in nonapportionment years.

History.—s. 3, ch. 91-107; s. 4, ch. 99-318; s. 17, ch. 2005-277.

**99.097 Verification of signatures on petitions.—**

(1)(a) As determined by each supervisor, based upon local conditions, the checking of names on petitions may be based on the most inexpensive and administratively feasible of either of the following methods of verification:

1. A check of each petition; or

2. A check of a random sample, as provided by the Department of State, of the petitions. The sample must be such that a determination can be made as to whether or not the required number of signatures has been obtained with a reliability of at least 99.5 percent.

(b) Rules and guidelines for petition verification shall be adopted by the Department of State. Rules and guidelines for a random sample method of verification may include a requirement that petitions bear an additional number of names and signatures, not to exceed 15 percent of the names and signatures otherwise required. If the petitions do not meet such criteria or if the petitions are prescribed by s. 100.371, the use of the random sample method of verification is not available to supervisors.

(2) When a petitioner submits petitions which contain at least 15 percent more than the required number of signatures, the petitioner may require that the supervisor of elections use the random sampling verification method in certifying the petition.

(3)(a) If all other requirements for the petition are met, a signature on a petition shall be verified and counted as valid for a registered voter if, after comparing the signature on the petition and the signature of the registered voter in the voter registration system, the supervisor is able to determine that the petition signer is the same as the registered voter, even if the name on the petition is not in substantially the same form as in the voter registration system.

(b) In any situation in which this code requires the form of the petition to be prescribed by the division, no signature shall be counted toward the number of signatures required unless it is on a

petition form prescribed by the division.

(c) If a voter signs a petition and lists an address other than the legal residence where the voter is registered, the supervisor shall treat the signature as if the voter had listed the address where the voter is registered.

(4) The supervisor shall be paid in advance the sum of 10 cents for each signature checked or the actual cost of checking such signature, whichever is less, by the candidate or, in the case of a petition to have an issue placed on the ballot, by the person or organization submitting the petition. However, if a candidate, person, or organization seeking to have an issue placed upon the ballot cannot pay such charges without imposing an undue burden on personal resources or upon the resources otherwise available to such candidate, person, or organization, such candidate, person, or organization shall, upon written certification of such inability given under oath to the supervisor, be entitled to have the signatures verified at no charge. In the event a candidate, person, or organization submitting a petition to have an issue placed upon the ballot is entitled to have the signatures verified at no charge, the supervisor of elections of each county in which the signatures are verified at no charge shall submit the total number of such signatures checked in the county to the Chief Financial Officer no later than December 1 of the general election year, and the Chief Financial Officer shall cause such supervisor of elections to be reimbursed from the General Revenue Fund in an amount equal to 10 cents for each name checked or the actual cost of checking such signatures, whichever is less. In no event shall such reimbursement of costs be deemed or applied as extra compensation for the supervisor. Petitions shall be retained by the supervisors for a period of 1 year following the election for which the petitions were circulated.

(5) The results of a verification pursuant to subparagraph (1)(a)2. may be contested in the circuit court by the candidate; an announced opponent; a representative of a designated political committee; or a person, party, or other organization submitting the petition. The contestant shall file a complaint, together with the fees prescribed in chapter 28, with the clerk of the circuit court in the county in which the petition is certified or in Leon County if the petition covers more than one county within 10 days after midnight of the date the petition is certified; and the complaint shall set forth the grounds on which the contestant intends to establish his or her right to require a complete check of the petition pursuant to subparagraph (1)(a)1. In the event the court orders a complete check of the petition and the result is not changed as to the success or lack of success of the petitioner in obtaining the requisite number of valid signatures, then such candidate, unless the candidate has filed the oath stating that he or she is unable to pay such charges; announced opponent; representative of a designated political committee; or party, person, or organization submitting the petition, unless such person or organization has filed the oath stating inability to pay such charges, shall pay to the supervisor of elections of each affected county for the complete check an amount calculated at the rate of 10 cents for each additional signature checked or the actual cost of checking such additional signatures, whichever is less.

(6)(a) If any person is paid to solicit signatures on a petition, an undue burden oath may not subsequently be filed in lieu of paying the fee to have signatures verified for that petition.

(b) If an undue burden oath has been filed and payment is subsequently made to any person to solicit signatures on a petition, the undue burden oath is no longer valid and a fee for all signatures previously submitted to the supervisor of elections and any that are submitted thereafter shall be paid by the candidate, person, or organization that submitted the undue burden oath. If contributions as defined in s. 106.011 are received, any monetary contributions must first be used to reimburse the supervisor of elections for any signature verification fees that were not paid because of the filing of an

undue burden oath.

History.—s. 2, ch. 76-233; s. 10, ch. 77-175; s. 2, ch. 80-20; s. 1, ch. 82-141; s. 13, ch. 89-338; s. 2, ch. 90-229; s. 12, ch. 90-315; s. 542, ch. 95-147; s. 21, ch. 97-13; s. 7, ch. 99-318; s. 109, ch. 2003-261; s. 19, ch. 2011-40.

**99.103 Department of State to remit part of filing fees and party assessments of candidates to state executive committee.—**

(1) If more than three-fourths of the full authorized membership of the state executive committee of any party was elected at the last previous election for such members and if such party is declared by the Department of State to have recorded on the registration books of the counties, as of the first Tuesday after the first Monday in January prior to the primary election in general election years, 5 percent of the total registration of such counties when added together, such committee shall receive, for the purpose of meeting its expenses, all filing fees collected by the Department of State from its candidates less an amount equal to 15 percent of the filing fees, which amount the Department of State shall deposit in the General Revenue Fund of the state.

(2) Not later than 20 days after the close of qualifying in even-numbered years, the Department of State shall remit 95 percent of all filing fees, less the amount deposited in general revenue pursuant to subsection (1), or party assessments that may have been collected by the department to the respective state executive committees of the parties complying with subsection (1). Party assessments collected by the Department of State shall be remitted to the appropriate state executive committee, irrespective of other requirements of this section, provided such committee is duly organized under the provisions of chapter 103. The remainder of filing fees or party assessments collected by the Department of State shall be remitted to the appropriate state executive committees not later than the date of the primary election.

History.—s. 1, ch. 29935, 1955; s. 24, ch. 57-1; s. 1, ch. 57-62; s. 4, ch. 57-166; s. 1, ch. 69-295; ss. 10, 35, ch. 69-106; s. 11, ch. 77-175; s. 2, ch. 83-251; s. 4, ch. 91-107; s. 14, ch. 97-13; s. 10, ch. 2005-286.

**99.121 Department of State to certify nominations to supervisors of elections.—**The Department of State shall certify to the supervisor of elections of each county affected by a candidacy for office the names of persons nominated to such office. The names of such persons shall be printed by the supervisor of elections upon the ballot in their proper place as provided by law.

History.—s. 30, ch. 4328, 1895; s. 10, ch. 4537, 1897; GS 215, 3824; s. 54, ch. 6469, 1913; RGS 259, 358, 5885; CGL 315, 415, 8148; s. 11, ch. 26329, 1949; s. 3, ch. 26870, 1951; s. 5, ch. 57-166; ss. 10, 35, ch. 69-106; s. 11, ch. 77-175.

Note.—Former ss. 99.13, 102.51.

Select Year:  

## The 2011 Florida Statutes

[Title IX](#)  
ELECTORS AND ELECTIONS

[Chapter 105](#)  
NONPARTISAN ELECTIONS

[View Entire Chapter](#)

### CHAPTER 105 NONPARTISAN ELECTIONS

- 105.011 Definitions.
- 105.031 Qualification; filing fee; candidate's oath; items required to be filed.
- 105.035 Petition process of qualifying for certain judicial offices and the office of school board member.
- 105.036 Initiative for method of selection for circuit or county court judges; procedures for placement on ballot.
- 105.041 Form of ballot.
- 105.051 Determination of election or retention to office.
- 105.061 Electors qualified to vote.
- 105.071 Candidates for judicial office; limitations on political activity.
- 105.08 Campaign contribution and expense; reporting.
- 105.09 Political activity in behalf of a candidate for judicial office limited.
- 105.10 Applicability of election code.
- 105.101 Effect of revision of county court judge selection method.
- 105.102 Effect of revision of circuit court judge selection method.

#### 105.011 Definitions.—

- (1) As used in this chapter, the term “judicial office” includes the office of:
  - (a) Justice of the Supreme Court.
  - (b) Judge of a district court of appeal.
  - (c) Judge of a circuit court.
  - (d) County court judge.
- (2) A judicial office is a nonpartisan office, and a candidate for election or retention thereto is prohibited from campaigning or qualifying for such an office based on party affiliation.

History.—s. 1, ch. 71-49; s. 1, ch. 72-310; s. 36, ch. 77-175.

#### 105.031 Qualification; filing fee; candidate's oath; items required to be filed.—

- (1) TIME OF QUALIFYING.—Except for candidates for judicial office, nonpartisan candidates for multicounty office shall qualify with the Division of Elections of the Department of State and nonpartisan candidates for countywide or less than countywide office shall qualify with the supervisor of elections. Candidates for judicial office other than the office of county court judge shall qualify with the Division of Elections of the Department of State, and candidates for the office of county court judge shall qualify with the supervisor of elections of the county. Candidates for judicial office shall qualify no



## (5) ITEMS REQUIRED TO BE FILED.—

(a) In order for a candidate for judicial office or the office of school board member to be qualified, the following items must be received by the filing officer by the end of the qualifying period:

1. Except for candidates for retention to judicial office, a properly executed check drawn upon the candidate's campaign account in an amount not less than the fee required by subsection (3) or, in lieu thereof, the copy of the notice of obtaining ballot position pursuant to s. 105.035. If a candidate's check is returned by the bank for any reason, the filing officer shall immediately notify the candidate and the candidate shall, the end of qualifying notwithstanding, have 48 hours from the time such notification is received, excluding Saturdays, Sundays, and legal holidays, to pay the fee with a cashier's check purchased from funds of the campaign account. Failure to pay the fee as provided in this subparagraph shall disqualify the candidate.

2. The candidate's oath required by subsection (4), which must contain the name of the candidate as it is to appear on the ballot; the office sought, including the district or group number if applicable; and the signature of the candidate, duly acknowledged.

3. The loyalty oath required by s. 876.05, signed by the candidate and duly acknowledged.

4. The completed form for the appointment of campaign treasurer and designation of campaign depository, as required by s. 106.021. In addition, each candidate for judicial office, including an incumbent judge, shall file a statement with the qualifying officer, within 10 days after filing the appointment of campaign treasurer and designation of campaign depository, stating that the candidate has read and understands the requirements of the Florida Code of Judicial Conduct. Such statement shall be in substantially the following form:

## Statement of Candidate for Judicial Office

I, (name of candidate), a judicial candidate, have received, read, and understand the requirements of the Florida Code of Judicial Conduct.

(Signature of candidate)

(Date)

5. The full and public disclosure of financial interests required by s. 8, Art. II of the State Constitution or the statement of financial interests required by s. 112.3145, whichever is applicable. A public officer who has filed the full and public disclosure or statement of financial interests with the Commission on Ethics or the supervisor of elections prior to qualifying for office may file a copy of that disclosure at the time of qualifying.

(b) If the filing officer receives qualifying papers that do not include all items as required by paragraph (a) prior to the last day of qualifying, the filing officer shall make a reasonable effort to notify the candidate of the missing or incomplete items and shall inform the candidate that all required items must be received by the close of qualifying. A candidate's name as it is to appear on the ballot may not be changed after the end of qualifying.

(6) Notwithstanding the qualifying period prescribed in this section, a filing officer may accept and hold qualifying papers submitted not earlier than 14 days prior to the beginning of the qualifying period, to be processed and filed during the qualifying period.

History.—s. 3, ch. 71-49; s. 36, ch. 77-175; s. 1, ch. 78-260; s. 5, ch. 79-365; s. 54, ch. 79-400; s. 17, ch. 81-105; s. 10, ch. 83-251; s. 1, ch. 89-152; s. 34, ch. 89-338; s. 5, ch. 91-107; s. 630, ch. 95-147; s. 2, ch. 95-156; s. 13, ch. 97-13; s. 13, ch. 99-6; s. 2, ch. 99-326; s. 2, ch. 99-355; s. 23, ch. 2002-17; s. 65, ch. 2005-277; s. 21, ch. 2005-286; s. 40, ch. 2007-30; s. 4, ch. 2010-16; s. 51, ch. 2011-40.

105.035 Petition process of qualifying for certain judicial offices and the office of school board member.—

(1) A person seeking to qualify for election to the office of circuit judge or county court judge or the office of school board member may qualify for election to such office by means of the petitioning process prescribed in this section. A person qualifying by this petition process is not required to pay the qualifying fee required by this chapter.

(2) The petition format shall be prescribed by the Division of Elections and shall be used by the candidate to reproduce petitions for circulation. If the candidate is running for an office that will be grouped on the ballot with two or more similar offices to be filled at the same election, the candidate's petition must indicate, prior to the obtaining of registered electors' signatures, for which group or district office the candidate is running.

(3) Each candidate for election to a judicial office or the office of school board member shall obtain the signature of a number of qualified electors equal to at least 1 percent of the total number of registered electors of the district, circuit, county, or other geographic entity represented by the office sought as shown by the compilation by the Department of State for the last preceding general election. A separate petition shall be circulated for each candidate availing himself or herself of the provisions of this section. Signatures may not be obtained until the candidate has filed the appointment of campaign treasurer and designation of campaign depository pursuant to s. 106.021.

(4)(a) Each candidate seeking to qualify for election to the office of circuit judge or the office of school board member from a multicounty school district pursuant to this section shall file a separate petition from each county from which signatures are sought. Each petition shall be submitted, prior to noon of the 28th day preceding the first day of the qualifying period for the office sought, to the supervisor of elections of the county for which such petition was circulated. Each supervisor of elections to whom a petition is submitted shall check the signatures on the petition to verify their status as electors of that county and of the geographic area represented by the office sought. No later than the 7th day before the first date for qualifying, the supervisor shall certify the number shown as registered electors and submit such certification to the Division of Elections. The division shall determine whether the required number of signatures has been obtained for the name of the candidate to be placed on the ballot and shall notify the candidate. If the required number of signatures has been obtained, the candidate shall, during the time prescribed for qualifying for office, submit a copy of such notice and file his or her qualifying papers and oath prescribed in s. 105.031 with the Division of Elections. Upon receipt of the copy of such notice and qualifying papers, the division shall certify the name of the candidate to the appropriate supervisor or supervisors of elections as having qualified for the office sought.

(b) Each candidate seeking to qualify for election to the office of county court judge or the office of school board member from a single county school district pursuant to this section shall submit his or her petition, prior to noon of the 28th day preceding the first day of the qualifying period for the office sought, to the supervisor of elections of the county for which such petition was circulated. The supervisor shall check the signatures on the petition to verify their status as electors of the county and of the geographic area represented by the office sought. No later than the 7th day before the first date for qualifying, the supervisor shall determine whether the required number of signatures has been obtained for the name of the candidate to be placed on the ballot and shall notify the candidate. If the required number of signatures has been obtained, the candidate shall, during the time prescribed for

qualifying for office, submit a copy of such notice and file his or her qualifying papers and oath prescribed in s. 105.031 with the qualifying officer. Upon receipt of the copy of such notice and qualifying papers, such candidate shall be entitled to have his or her name printed on the ballot.

History.—s. 37, ch. 77-175; s. 2, ch. 89-152; s. 35, ch. 89-338; s. 23, ch. 90-315; s. 631, ch. 95-147; s. 6, ch. 99-318; s. 3, ch. 99-326; s. 66, ch. 2005-277.

**105.036 Initiative for method of selection for circuit or county court judges; procedures for placement on ballot.—**

(1) Subsequent to the general election in the year 2000, a local option for merit selection and retention or the election of circuit or county court judges may be placed on the ballot for the general election occurring in excess of 90 days from the certification of ballot position by the Secretary of State for circuit court judges or the county supervisor of elections for county court judges. The ballot shall provide for a vote on the method for selection of judges not currently used for filling judicial offices in the county or circuit.

(2) Certification of ballot position for the method of selection of circuit court judges shall be issued when the Secretary of State has received a verification certificate from each supervisor of elections in a circuit indicating that the requisite number of valid signatures of electors in the circuit has been submitted and verified by the supervisor or supervisors of that circuit. Certification of ballot position for the method of selection of county court judges shall be issued when the supervisor of elections in a county indicates that the requisite number of signatures of electors in the county has been submitted to and verified by the supervisor. Each signature shall be dated when made and shall be valid for a period of 2 years following such date, provided all requirements of law are complied with.

(3) The sponsor of an initiative for merit selection and retention or election of circuit or county court judges must register as a political committee pursuant to s. 106.03.

(4) The Secretary of State shall adopt rules pursuant to ss. 120.536(1) and 120.54 prescribing the style and requirements of the circuit court and county court forms for collection of signatures.

(5) No later than 5 p.m. 151 days prior to the general election at which the proposed judicial selection initiative is to be voted on, the sponsor shall submit signed and dated forms to the appropriate supervisor of elections for verification as to the number of registered electors whose valid signatures appear thereon. The supervisor shall promptly verify the signatures upon payment of the fee or filing of the undue burden oath required by s. 99.097. Verification must be completed at least 91 days prior to the general election. Upon completion of verification, the supervisor shall execute a certificate indicating the total number of signatures checked and the number of signatures verified as valid and as being of registered electors of the applicable county or circuit. This certificate must be immediately transmitted to the Secretary of State for petitions related to the method of selection of circuit court judges. The supervisor must retain the signature forms for at least 1 year following the election in which the issue appeared on the ballot or until the committee that circulated the petition is no longer seeking to obtain ballot position as determined by the Division of Elections for circuit court petitions or by the supervisor of elections for county court petitions.

(6) Upon a determination by the Secretary of State for circuit court petitions or by the supervisor of elections for county court petitions that the requisite number of valid signatures has been obtained, a certification of ballot position must be issued for the proposed method of selection of judges. A request to exercise a local option to change the method for selection of circuit or county court judges is deemed filed with the Secretary of State for circuit court judges or the supervisor of elections for county court judges upon the date of the receipt of a certificate or certificates indicating the petition has been

signed by the constitutionally required number of electors.

(7) Within 10 days after each general election for which an initiative to change the method of selection of circuit or county court judges was placed on the ballot in any circuit or county in the state, the Secretary of State must notify the Chief Justice of the Supreme Court of Florida of the changed method for selection of judges for any circuit or county where the initiative passed.

(8) The Department of State shall have the authority to promulgate rules in accordance with ss. 120.536(1) and 120.54 to carry out the provisions of this section.

History.—s. 9, ch. 99-355.

#### 105.041 Form of ballot.—

(1) **BALLOTS.**—The names of candidates for nonpartisan office which appear on the ballot at the primary election shall be grouped together on a separate portion of the ballot or on a separate ballot. The names of candidates for election to nonpartisan office which appear on the ballot at the general election and the names of justices and judges seeking retention to office shall be grouped together on a separate portion of the general election ballot.

(2) **LISTING OF CANDIDATES.**—The order of nonpartisan offices appearing on the ballot shall be determined by the Department of State. The names of candidates for election to each nonpartisan office shall be listed in alphabetical order. With respect to retention of justices and judges, the question “Shall Justice (or Judge) (name of justice or judge) of the (name of the court) be retained in office?” shall appear on the ballot in alphabetical order and thereafter the words “Yes” and “No.”

(3) **REFERENCE TO PARTY AFFILIATION PROHIBITED.**—No reference to political party affiliation shall appear on any ballot with respect to any nonpartisan office or candidate.

(4) **WRITE-IN CANDIDATES.**—Space shall be made available on the general election ballot for an elector to write in the name of a write-in candidate for judge of a circuit court or county court or member of a school board if a candidate has qualified as a write-in candidate for such office pursuant to s. 105.031. This subsection shall not apply to the offices of justices and judges seeking retention.

History.—s. 4, ch. 71-49; s. 38, ch. 77-175; s. 55, ch. 79-400; s. 1, ch. 80-305; s. 18, ch. 81-105; s. 4, ch. 99-326; s. 3, ch. 99-355; s. 2, ch. 2000-361; s. 22, ch. 2005-286; s. 34, ch. 2008-95.

#### 105.051 Determination of election or retention to office.—

(1) **ELECTION.**—In circuits and counties holding elections:

(a) The name of an unopposed candidate for the office of circuit judge, county court judge, or member of a school board shall not appear on any ballot, and such candidate shall be deemed to have voted for himself or herself at the general election.

(b) If two or more candidates, neither of whom is a write-in candidate, qualify for such an office, the names of those candidates shall be placed on the ballot at the primary election. If any candidate for such office receives a majority of the votes cast for such office in the primary election, the name of the candidate who receives such majority shall not appear on any other ballot unless a write-in candidate has qualified for such office. An unopposed candidate shall be deemed to have voted for himself or herself at the general election. If no candidate for such office receives a majority of the votes cast for such office in the primary election, the names of the two candidates receiving the highest number of votes for such office shall be placed on the general election ballot. If more than two candidates receive an equal and highest number of votes, the name of each candidate receiving an equal and highest number of votes shall be placed on the general election ballot. In any contest in which there is a tie for second place and the candidate placing first did not receive a majority of the votes cast for such office,

the name of the candidate placing first and the name of each candidate tying for second shall be placed on the general election ballot.

(c) The candidate who receives the highest number of votes cast for the office in the general election shall be elected to such office. If the vote at the general election results in a tie, the outcome shall be determined by lot.

(2) RETENTION.—With respect to any justice or judge who qualifies to run for retention in office, the question prescribed in s. 105.041(2) shall be placed on the ballot at the general election. If a majority of the qualified electors voting on such question within the territorial jurisdiction of the court vote for retention, the justice or judge shall be retained for a term of 6 years commencing on the first Tuesday after the first Monday in January following the general election. If less than a majority of the qualified electors voting on such question within the territorial jurisdiction of the court vote for retention, a vacancy shall exist in such office upon the expiration of the term being served by the justice or judge.

History.—s. 5, ch. 71-49; s. 38, ch. 77-175; s. 19, ch. 81-105; s. 632, ch. 95-147; s. 5, ch. 99-326; s. 4, ch. 99-355; s. 23, ch. 2005-286.

#### 105.061 Electors qualified to vote.—

(1) Each qualified elector of the territorial jurisdiction of a court shall be eligible to vote for a candidate for each judicial office of such court or, in the case of a justice or a judge seeking retention, for or against retention of such justice or judge.

(2) The election of members of a school board shall be by vote of the qualified electors as prescribed in chapter 1001.

History.—s. 6, ch. 71-49; s. 38, ch. 77-175; s. 6, ch. 99-326; s. 5, ch. 99-355; s. 887, ch. 2002-387.

105.071 Candidates for judicial office; limitations on political activity.—A candidate for judicial office shall not:

(1) Participate in any partisan political party activities, except that such candidate may register to vote as a member of any political party and may vote in any party primary for candidates for nomination of the party in which she or he is registered to vote.

(2) Campaign as a member of any political party.

(3) Publicly represent or advertise herself or himself as a member of any political party.

(4) Endorse any candidate.

(5) Make political speeches other than in the candidate's own behalf.

(6) Make contributions to political party funds.

(7) Accept contributions from any political party.

(8) Solicit contributions for any political party.

(9) Accept or retain a place on any political party committee.

(10) Make any contribution to any person, group, or organization for its endorsement to judicial office.

(11) Agree to pay all or any part of any advertisement sponsored by any person, group, or organization wherein the candidate may be endorsed for judicial office by any such person, group, or organization.

A candidate for judicial office or retention therein who violates the provisions of this section is liable for a civil fine of up to \$1,000 to be determined by the Florida Elections Commission.

History.—s. 7, ch. 71-49; s. 2, ch. 72-310; s. 38, ch. 77-175; s. 633, ch. 95-147; s. 7, ch. 99-326.

**105.08 Campaign contribution and expense; reporting.—**

(1) A candidate for judicial office or the office of school board member may accept contributions and may incur only such expenses as are authorized by law. Each such candidate shall keep an accurate record of his or her contributions and expenses, and shall file reports pursuant to chapter 106.

(2) Notwithstanding any other provision of this chapter or chapter 106, a candidate for retention as a justice or a judge who has not received any contribution or made any expenditure may file a sworn statement at the time of qualifying that he or she does not anticipate receiving contributions or making expenditures in connection with the candidacy for retention to office. Such candidate shall file a final report pursuant to s. 106.141, within 90 days following the general election for which the candidate's name appeared on the ballot for retention. Any such candidate for retention to judicial office who, after filing a statement pursuant to this subsection, receives any contribution or makes any expenditure in connection with the candidacy for retention shall immediately file a statement to that effect with the qualifying officer and shall begin filing reports as an opposed candidate pursuant to s. 106.07.

History.—s. 8, ch. 71-49; s. 38, ch. 77-175; s. 3, ch. 89-152; s. 634, ch. 95-147; s. 8, ch. 99-326; s. 6, ch. 99-355.

**105.09 Political activity in behalf of a candidate for judicial office limited.—**

(1) No political party or partisan political organization shall endorse, support, or assist any candidate in a campaign for election to judicial office.

(2) Any person who knowingly, in an individual capacity or as an officer of an organization, violates the provisions of this section is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 9, ch. 71-49; s. 38, ch. 77-175; s. 635, ch. 95-147.

**105.10 Applicability of election code.—**If any provision of this chapter is in conflict with any other provision of this code, the provision of this chapter shall prevail.

History.—s. 10, ch. 71-49; s. 38, ch. 77-175.

**105.101 Effect of revision of county court judge selection method.—**No county court judge elected prior to or at the election that approves any revision to the selection of county court judges shall be affected in his or her term of office. Any county judge wishing to apply for a subsequent term will be elected or retained pursuant to the method of election or selection and retention of county court judges in effect in the county for the election preceding the end of the judge's term of office.

History.—s. 11, ch. 99-355.

**105.102 Effect of revision of circuit court judge selection method.—**No circuit court judge elected prior to or at the election that approves any revision to the selection of circuit court judge shall be affected in his or her term of office. Any circuit court judge wishing to apply for a subsequent term will be elected or retained pursuant to the method of election or selection and retention of circuit court judges in effect in the circuit for the election preceding the end of the judge's term of office.

History.—s. 12, ch. 99-355.

Select Year:  

## The 2011 Florida Statutes

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[Title IX](#)  
ELECTORS AND ELECTIONS

[Chapter 106](#)  
CAMPAIGN FINANCING

[View Entire Chapter](#)

### CHAPTER 106 CAMPAIGN FINANCING

- 106.011 Definitions.
- 106.021 Campaign treasurers; deputies; primary and secondary depositories.
- 106.022 Appointment of a registered agent; duties.
- 106.023 Statement of candidate.
- 106.025 Campaign fund raisers.
- 106.03 Registration of political committees and electioneering communications organizations.
- 106.04 Committees of continuous existence.
- 106.05 Deposit of contributions; statement of campaign treasurer.
- 106.055 Valuation of in-kind contributions.
- 106.06 Treasurer to keep records; inspections.
- 106.07 Reports; certification and filing.
- 106.0701 Solicitation of contributions on behalf of s. 527 or s. 501(c)(4) organizations; reporting requirements; civil penalty; exemption.
- 106.0703 Electioneering communications organizations; reporting requirements; certification and filing; penalties.
- 106.0705 Electronic filing of campaign treasurer's reports.
- 106.0706 Electronic filing of campaign finance reports; public records exemption.
- 106.071 Independent expenditures; electioneering communications; reports; disclaimers.
- 106.075 Elected officials; report of loans made in year preceding election; limitation on contributions to pay loans.
- 106.08 Contributions; limitations on.
- 106.087 Independent expenditures; contribution limits; restrictions on political parties, political committees, and committees of continuous existence.
- 106.088 Independent expenditures; contribution limits; restrictions on affiliated party committees.
- 106.09 Cash contributions and contribution by cashier's checks.
- 106.11 Expenses of and expenditures by candidates and political committees.
- 106.113 Expenditures by local governments.
- 106.12 Petty cash funds allowed.
- 106.125 Credit cards; conditions on use.
- 106.14 Utilities; deposits; prior authorization.
- 106.1405 Use of campaign funds.
- 106.141 Disposition of surplus funds by candidates.

- 106.143 Political advertisements circulated prior to election; requirements.
- 106.1435 Usage and removal of political campaign advertisements.
- 106.1437 Miscellaneous advertisements.
- 106.1439 Electioneering communications; disclaimers.
- 106.147 Telephone solicitation; disclosure requirements; prohibitions; exemptions; penalties.
- 106.1475 Telephone solicitation; registered agent requirements; penalty.
- 106.15 Certain acts prohibited.
- 106.16 Limitation on certain rates and charges.
- 106.161 Air time available at the lowest unit rate.
- 106.165 Use of closed captioning and descriptive narrative in all television broadcasts.
- 106.17 Polls and surveys relating to candidacies.
- 106.18 When a candidate's name to be omitted from ballot.
- 106.19 Violations by candidates, persons connected with campaigns, and political committees.
- 106.191 Signatures gathered for initiative petition; effect of ch. 97-13.
- 106.21 Certificates of election not to be issued upon conviction.
- 106.22 Duties of the Division of Elections.
- 106.23 Powers of the Division of Elections.
- 106.24 Florida Elections Commission; membership; powers; duties.
- 106.25 Reports of alleged violations to Florida Elections Commission; disposition of findings.
- 106.26 Powers of commission; rights and responsibilities of parties; findings by commission.
- 106.265 Civil penalties.
- 106.27 Determinations by commission; legal disposition.
- 106.28 Limitation of actions.
- 106.29 Reports by political parties and affiliated party committees; restrictions on contributions and expenditures; penalties.
- 106.295 Leadership fund.
- 106.30 Short title.
- 106.31 Legislative intent.
- 106.32 Election Campaign Financing Trust Fund.
- 106.33 Election campaign financing; eligibility.
- 106.34 Expenditure limits.
- 106.35 Distribution of funds.
- 106.353 Candidates voluntarily abiding by election campaign financing limits but not requesting public funds; irrevocable statement required; penalty.
- 106.355 Nonparticipating candidate exceeding limits.
- 106.36 Penalties; fines.

106.011 Definitions.—As used in this chapter, the following terms have the following meanings unless the context clearly indicates otherwise:

<sup>1</sup>(1)(a) “Political committee” means:

1. A combination of two or more individuals, or a person other than an individual, that, in an aggregate amount in excess of \$500 during a single calendar year:

a. Accepts contributions for the purpose of making contributions to any candidate, political committee, committee of continuous existence, affiliated party committee, or political party;

b. Accepts contributions for the purpose of expressly advocating the election or defeat of a candidate or the passage or defeat of an issue;

c. Makes expenditures that expressly advocate the election or defeat of a candidate or the passage or defeat of an issue; or

d. Makes contributions to a common fund, other than a joint checking account between spouses, from which contributions are made to any candidate, political committee, committee of continuous existence, affiliated party committee, or political party;

2. The sponsor of a proposed constitutional amendment by initiative who intends to seek the signatures of registered electors.

(b) Notwithstanding paragraph (a), the following entities are not considered political committees for purposes of this chapter:

1. Organizations which are certified by the Department of State as committees of continuous existence pursuant to s. 106.04, national political parties, the state and county executive committees of political parties, and affiliated party committees regulated by chapter 103.

2. Corporations regulated by chapter 607 or chapter 617 or other business entities formed for purposes other than to support or oppose issues or candidates, if their political activities are limited to contributions to candidates, political parties, affiliated party committees, or political committees or expenditures in support of or opposition to an issue from corporate or business funds and if no contributions are received by such corporations or business entities.

3. Electioneering communications organizations as defined in subsection (19).

(2) "Committee of continuous existence" means any group, organization, association, or other such entity which is certified pursuant to the provisions of s. 106.04.

<sup>1</sup>(3) "Contribution" means:

(a) A gift, subscription, conveyance, deposit, loan, payment, or distribution of money or anything of value, including contributions in kind having an attributable monetary value in any form, made for the purpose of influencing the results of an election or making an electioneering communication.

(b) A transfer of funds between political committees, between committees of continuous existence, between electioneering communications organizations, or between any combination of these groups.

(c) The payment, by any person other than a candidate or political committee, of compensation for the personal services of another person which are rendered to a candidate or political committee without charge to the candidate or committee for such services.

(d) The transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, and the term includes any interest earned on such account or certificate.

Notwithstanding the foregoing meanings of "contribution," the term may not be construed to include services, including, but not limited to, legal and accounting services, provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate or political committee <sup>2</sup>or editorial endorsements.

<sup>1</sup>(4)(a) "Expenditure" means a purchase, payment, distribution, loan, advance, transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, or gift of money or anything of value made for the purpose of influencing the results of an election or making an electioneering communication. However, "expenditure" does not include a purchase, payment, distribution, loan, advance, or gift of money or

anything of value made for the purpose of influencing the results of an election when made by an organization, in existence prior to the time during which a candidate qualifies or an issue is placed on the ballot for that election, for the purpose of printing or distributing such organization's newsletter, containing a statement by such organization in support of or opposition to a candidate or issue, which newsletter is distributed only to members of such organization.

(b) As used in this chapter, an "expenditure" for an electioneering communication is made when the earliest of the following occurs:

1. A person enters into a contract for applicable goods or services;
2. A person makes payment, in whole or in part, for the production or public dissemination of applicable goods or services; or
3. The electioneering communication is publicly disseminated.

<sup>1</sup>(5)(a) "Independent expenditure" means an expenditure by a person for the purpose of expressly advocating the election or defeat of a candidate or the approval or rejection of an issue, which expenditure is not controlled by, coordinated with, or made upon consultation with, any candidate, political committee, or agent of such candidate or committee. An expenditure for such purpose by a person having a contract with the candidate, political committee, or agent of such candidate or committee in a given election period shall not be deemed an independent expenditure.

(b) An expenditure for the purpose of expressly advocating the election or defeat of a candidate which is made by the national, state, or county executive committee of a political party, including any subordinate committee of the political party, an affiliated party committee, a political committee, a committee of continuous existence, or any other person shall not be considered an independent expenditure if the committee or person:

1. Communicates with the candidate, the candidate's campaign, or an agent of the candidate acting on behalf of the candidate, including any pollster, media consultant, advertising agency, vendor, advisor, or staff member, concerning the preparation of, use of, or payment for, the specific expenditure or advertising campaign at issue; or
2. Makes a payment in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with the candidate, the candidate's campaign, a political committee supporting the candidate, or an agent of the candidate relating to the specific expenditure or advertising campaign at issue; or
3. Makes a payment for the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by the candidate, the candidate's campaign, or an agent of the candidate, including any pollster, media consultant, advertising agency, vendor, advisor, or staff member; or
4. Makes a payment based on information about the candidate's plans, projects, or needs communicated to a member of the committee or person by the candidate or an agent of the candidate, provided the committee or person uses the information in any way, in whole or in part, either directly or indirectly, to design, prepare, or pay for the specific expenditure or advertising campaign at issue; or
5. After the last day of the qualifying period prescribed for the candidate, consults about the candidate's plans, projects, or needs in connection with the candidate's pursuit of election to office and the information is used in any way to plan, create, design, or prepare an independent expenditure or advertising campaign, with:
  - a. Any officer, director, employee, or agent of a national, state, or county executive committee of a political party or an affiliated party committee that has made or intends to make expenditures in

connection with or contributions to the candidate; or

b. Any person whose professional services have been retained by a national, state, or county executive committee of a political party or an affiliated party committee that has made or intends to make expenditures in connection with or contributions to the candidate; or

6. After the last day of the qualifying period prescribed for the candidate, retains the professional services of any person also providing those services to the candidate in connection with the candidate's pursuit of election to office; or

7. Arranges, coordinates, or directs the expenditure, in any way, with the candidate or an agent of the candidate.

(6) "Election" means any primary election, special primary election, general election, special election, or municipal election held in this state for the purpose of nominating or electing candidates to public office, choosing delegates to the national nominating conventions of political parties, or submitting an issue to the electors for their approval or rejection.

(7) "Issue" means any proposition which is required by the State Constitution, by law or resolution of the Legislature, or by the charter, ordinance, or resolution of any political subdivision of this state to be submitted to the electors for their approval or rejection at an election, or any proposition for which a petition is circulated in order to have such proposition placed on the ballot at any election.

<sup>1</sup>(8) "Person" means an individual or a corporation, association, firm, partnership, joint venture, joint stock company, club, organization, estate, trust, business trust, syndicate, or other combination of individuals having collective capacity. The term includes a political party, affiliated party committee, political committee, or committee of continuous existence.

(9) "Campaign treasurer" means an individual appointed by a candidate or political committee as provided in this chapter.

(10) "Public office" means any state, county, municipal, or school or other district office or position which is filled by vote of the electors.

(11) "Campaign fund raiser" means any affair held to raise funds to be used in a campaign for public office.

(12) "Division" means the Division of Elections of the Department of State.

(13) "Communications media" means broadcasting stations, newspapers, magazines, outdoor advertising facilities, printers, direct mail, advertising agencies, the Internet, and telephone companies; but with respect to telephones, an expenditure shall be deemed to be an expenditure for the use of communications media only if made for the costs of telephones, paid telephonists, or automatic telephone equipment to be used by a candidate or a political committee to communicate with potential voters but excluding any costs of telephones incurred by a volunteer for use of telephones by such volunteer; however, with respect to the Internet, an expenditure shall be deemed an expenditure for use of communications media only if made for the cost of creating or disseminating a message on a computer information system accessible by more than one person but excluding internal communications of a campaign or of any group.

<sup>1</sup>(14) "Filing officer" means the person before whom a candidate qualifies, the agency or officer with whom a political committee or an electioneering communications organization registers, or the agency by whom a committee of continuous existence is certified.

(15) "Unopposed candidate" means a candidate for nomination or election to an office who, after the last day on which any person, including a write-in candidate, may qualify, is without opposition in the election at which the office is to be filled or who is without such opposition after such date as a

result of any primary election or of withdrawal by other candidates seeking the same office. A candidate is not an unopposed candidate if there is a vacancy to be filled under s. 100.111(3), if there is a legal proceeding pending regarding the right to a ballot position for the office sought by the candidate, or if the candidate is seeking retention as a justice or judge.

(16) "Candidate" means any person to whom any one or more of the following apply:

- (a) Any person who seeks to qualify for nomination or election by means of the petitioning process.
- (b) Any person who seeks to qualify for election as a write-in candidate.
- (c) Any person who receives contributions or makes expenditures, or consents for any other person to receive contributions or make expenditures, with a view to bring about his or her nomination or election to, or retention in, public office.
- (d) Any person who appoints a treasurer and designates a primary depository.
- (e) Any person who files qualification papers and subscribes to a candidate's oath as required by law.

However, this definition does not include any candidate for a political party executive committee. Expenditures related to potential candidate polls as provided in s. 106.17 are not contributions or expenditures for purposes of this subsection.

(17) "Political advertisement" means a paid expression in any communications media prescribed in subsection (13), whether radio, television, newspaper, magazine, periodical, campaign literature, direct mail, or display or by means other than the spoken word in direct conversation, which expressly advocates the election or defeat of a candidate or the approval or rejection of an issue. However, political advertisement does not include:

- (a) A statement by an organization, in existence prior to the time during which a candidate qualifies or an issue is placed on the ballot for that election, in support of or opposition to a candidate or issue, in that organization's newsletter, which newsletter is distributed only to the members of that organization.
- (b) Editorial endorsements by any newspaper, radio or television station, or other recognized news medium.

<sup>1</sup>(18)(a) "Electioneering communication" means any communication that is publicly distributed by a television station, radio station, cable television system, satellite system, newspaper, magazine, direct mail, or telephone and that:

- 1. Refers to or depicts a clearly identified candidate for office without expressly advocating the election or defeat of a candidate but that is susceptible of no reasonable interpretation other than an appeal to vote for or against a specific candidate;
- 2. Is made within 30 days before a primary or special primary election or 60 days before any other election for the office sought by the candidate; and
- 3. Is targeted to the relevant electorate in the geographic area the candidate would represent if elected.

(b) The term "electioneering communication" does not include:

- 1. A communication disseminated through a means of communication other than a television station, radio station, cable television system, satellite system, newspaper, magazine, direct mail, telephone, or statement or depiction by an organization, in existence prior to the time during which a candidate named or depicted qualifies for that election, made in that organization's newsletter, which newsletter is distributed only to members of that organization.

2. A communication in a news story, commentary, or editorial distributed through the facilities of any radio station, television station, cable television system, or satellite system, unless the facilities are owned or controlled by any political party, political committee, or candidate. A news story distributed through the facilities owned or controlled by any political party, political committee, or candidate may nevertheless be exempt if it represents a bona fide news account communicated through a licensed broadcasting facility and the communication is part of a general pattern of campaign-related news accounts that give reasonably equal coverage to all opposing candidates in the area.

3. A communication that constitutes a public debate or forum that includes at least two opposing candidates for an office or one advocate and one opponent of an issue, or that solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum, provided that:

a. The staging organization is either:

(I) A charitable organization that does not make other electioneering communications and does not otherwise support or oppose any political candidate or political party; or

(II) A newspaper, radio station, television station, or other recognized news medium; and

b. The staging organization does not structure the debate to promote or advance one candidate or issue position over another.

(c) For purposes of this chapter, an expenditure made for, or in furtherance of, an electioneering communication shall not be considered a contribution to or on behalf of any candidate.

(d) For purposes of this chapter, an electioneering communication shall not constitute an independent expenditure nor be subject to the limitations applicable to independent expenditures.

<sup>1</sup>(19) "Electioneering communications organization" means any group, other than a political party, affiliated party committee, political committee, or committee of continuous existence, whose election-related activities are limited to making expenditures for electioneering communications or accepting contributions for the purpose of making electioneering communications and whose activities would not otherwise require the group to register as a political party, political committee, or committee of continuous existence under this chapter.

History.—s. 1, ch. 73-128; s. 1, ch. 74-200; s. 1, ch. 77-174; s. 39, ch. 77-175; s. 2, ch. 79-157; ss. 6, 17, ch. 79-365; s. 1, ch. 79-378; s. 22, ch. 81-304; s. 34, ch. 84-302; s. 4, ch. 85-226; s. 2, ch. 89-256; s. 1, ch. 89-537; s. 24, ch. 90-315; s. 9, ch. 91-107; s. 636, ch. 95-147; s. 2, ch. 97-13; s. 7, ch. 99-355; s. 1, ch. 2002-197; s. 2, ch. 2004-252; s. 1, ch. 2006-300; s. 19, ch. 2010-167; ss. 4, 30, ch. 2011-6; s. 52, ch. 2011-40; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—Section 30, ch. 2011-6, provides that "[t]his act shall take effect July 1, 2010." Passed by the Senate and the House of Representatives over the Governor's veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective "upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible." C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

<sup>2</sup>Note.—The word "or" was inserted by the editors.

#### 106.021 Campaign treasurers; deputies; primary and secondary depositories.—

(1)(a) Each candidate for nomination or election to office and each political committee shall appoint a campaign treasurer. Each person who seeks to qualify for nomination or election to, or retention in, office shall appoint a campaign treasurer and designate a primary campaign depository prior to qualifying for office. Any person who seeks to qualify for election or nomination to any office by means of the petitioning process shall appoint a treasurer and designate a primary depository on or before the date he or she obtains the petitions. Each candidate shall at the same time he or she designates a

campaign depository and appoints a treasurer also designate the office for which he or she is a candidate. If the candidate is running for an office which will be grouped on the ballot with two or more similar offices to be filled at the same election, the candidate must indicate for which group or district office he or she is running. Nothing in this subsection shall prohibit a candidate, at a later date, from changing the designation of the office for which he or she is a candidate. However, if a candidate changes the designated office for which he or she is a candidate, the candidate must notify all contributors in writing of the intent to seek a different office and offer to return pro rata, upon their request, those contributions given in support of the original office sought. This notification shall be given within 15 days after the filing of the change of designation and shall include a standard form developed by the Division of Elections for requesting the return of contributions. The notice requirement shall not apply to any change in a numerical designation resulting solely from redistricting. If, within 30 days after being notified by the candidate of the intent to seek a different office, the contributor notifies the candidate in writing that the contributor wishes his or her contribution to be returned, the candidate shall return the contribution, on a pro rata basis, calculated as of the date the change of designation is filed. Any contributions not requested to be returned within the 30-day period may be used by the candidate for the newly designated office. No person shall accept any contribution or make any expenditure with a view to bringing about his or her nomination, election, or retention in public office, or authorize another to accept such contributions or make such expenditure on the person's behalf, unless such person has appointed a campaign treasurer and designated a primary campaign depository. A candidate for an office voted upon statewide may appoint not more than 15 deputy campaign treasurers, and any other candidate or political committee may appoint not more than 3 deputy campaign treasurers. The names and addresses of the campaign treasurer and deputy campaign treasurers so appointed shall be filed with the officer before whom such candidate is required to qualify or with whom such political committee is required to register pursuant to s. 106.03.

(b) Except as provided in paragraph (d), each candidate and each political committee shall also designate one primary campaign depository for the purpose of depositing all contributions received, and disbursing all expenditures made, by the candidate or political committee. The candidate or political committee may also designate one secondary depository in each county in which an election is held in which the candidate or committee participates. Secondary depositories shall be for the sole purpose of depositing contributions and forwarding the deposits to the primary campaign depository. Any bank, savings and loan association, or credit union authorized to transact business in this state may be designated as a campaign depository. The candidate or political committee shall file the name and address of each primary and secondary depository so designated at the same time that, and with the same officer with whom, the candidate or committee files the name of his, her, or its campaign treasurer pursuant to paragraph (a). In addition, the campaign treasurer or a deputy campaign treasurer may deposit any funds which are in the primary campaign depository and which are not then currently needed for the disbursement of expenditures into a separate interest-bearing account in any bank, savings and loan association, or credit union authorized to transact business in this state. The separate interest-bearing account shall be designated “  (name of candidate or committee)  separate interest-bearing campaign account.” In lieu thereof, the campaign treasurer or deputy campaign treasurer may purchase a certificate of deposit with such unneeded funds in such bank, savings and loan association, or credit union. The separate interest-bearing account or certificate of deposit shall be separate from any personal or other account or certificate of deposit. Any withdrawal of the principal or earned interest or any part thereof shall only be made from the separate interest-bearing account or certificate of deposit

for the purpose of transferring funds to the primary account and shall be reported as a contribution.

(c) Any campaign treasurer or deputy treasurer appointed pursuant to this section shall, before such appointment may become effective, have accepted appointment to such position in writing and filed such acceptance with the officer before whom the candidate is required to qualify or with the officer with whom the political committee is required to file reports. An individual may be appointed and serve as campaign treasurer of a candidate and a political committee or two or more candidates and political committees. A candidate may appoint herself or himself as campaign treasurer.

(d) Any political committee which deposits all contributions received in a national depository from which the political committee receives funds to contribute to state and local candidates shall not be required to designate a campaign depository in the state.

(2) A candidate or political committee may remove his, her, or its campaign treasurer or any deputy treasurer. In case of the death, resignation, or removal of a campaign treasurer before compliance with all obligations of a campaign treasurer under this chapter, the candidate or political committee shall appoint a successor and certify the name and address of the successor in the manner provided in the case of an original appointment. No resignation shall be effective until it has been submitted to the candidate or committee in writing and a copy thereof has been filed with the officer before whom the candidate is required to qualify or the officer with whom the political committee is required to file reports. No treasurer or deputy treasurer shall be deemed removed by a candidate or political committee until written notice of such removal has been given to such treasurer or deputy treasurer and has been filed with the officer before whom such candidate is required to qualify or with the officer with whom such committee is required to file reports.

<sup>1</sup>(3) No contribution or expenditure, including contributions or expenditures of a candidate or of the candidate's family, shall be directly or indirectly made or received in furtherance of the candidacy of any person for nomination or election to political office in the state or on behalf of any political committee except through the duly appointed campaign treasurer of the candidate or political committee, subject to the following exceptions:

(a) Independent expenditures;

(b) Reimbursements to a candidate or any other individual for expenses incurred in connection with the campaign or activities of the political committee by a check drawn upon the campaign account and reported pursuant to s. 106.07(4). The full name of each person to whom the candidate or other individual made payment for which reimbursement was made by check drawn upon the campaign account shall be reported pursuant to s. 106.07(4), together with the purpose of such payment;

(c) Expenditures made indirectly through a treasurer for goods or services, such as communications media placement or procurement services, campaign signs, insurance, or other expenditures that include multiple integral components as part of the expenditure and reported pursuant to s. 106.07(4)

(a)13.; or

(d) Expenditures made directly by any political committee, affiliated party committee, or political party regulated by chapter 103 for obtaining time, space, or services in or by any communications medium for the purpose of jointly endorsing three or more candidates, and any such expenditure shall not be considered a contribution or expenditure to or on behalf of any such candidates for the purposes of this chapter.

(4) A deputy campaign treasurer may exercise any of the powers and duties of a campaign treasurer as set forth in this chapter when specifically authorized to do so by the campaign treasurer and the candidate, in the case of a candidate, or the campaign treasurer and chair of the political committee, in

the case of a political committee.

(5) For purposes of appointing a campaign treasurer and designating a campaign depository, candidates for the offices of Governor and Lieutenant Governor on the same ticket shall be considered a single candidate.

History.—s. 2, ch. 73-128; s. 2, ch. 74-200; s. 1, ch. 75-139; s. 39, ch. 77-175; s. 2, ch. 79-378; s. 56, ch. 79-400; s. 23, ch. 81-304; s. 35, ch. 84-302; s. 3, ch. 89-256; s. 25, ch. 90-315; s. 10, ch. 91-107; s. 637, ch. 95-147; s. 9, ch. 97-13; s. 28, ch. 2002-17; s. 14, ch. 2004-252; s. 41, ch. 2007-30; s. 28, ch. 2008-95; ss. 5, 30, ch. 2011-6; s. 53, ch. 2011-40; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the House of Representatives over the Governor’s veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective “upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.” C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

#### 106.022 Appointment of a registered agent; duties.—

<sup>1</sup>(1) Each political committee, committee of continuous existence, or electioneering communications organization shall have and continuously maintain in this state a registered office and a registered agent and must file with the filing officer a statement of appointment for the registered office and registered agent. The statement of appointment must:

(a) Provide the name of the registered agent and the street address and phone number for the registered office;

(b) Identify the entity for whom the registered agent serves;

(c) Designate the address the registered agent wishes to use to receive mail;

(d) Include the entity’s undertaking to inform the filing officer of any change in such designated address;

(e) Provide for the registered agent’s acceptance of the appointment, which must confirm that the registered agent is familiar with and accepts the obligations of the position as set forth in this section; and

(f) Contain the signature of the registered agent and the entity engaging the registered agent.

(2) An entity may change its appointment of registered agent and registered office under this section by executing a written statement of change and filing it with the filing officer. The statement must satisfy all of the requirements of subsection (1).

(3) A registered agent may resign his or her appointment as registered agent by executing a written statement of resignation and filing it with the filing officer. An entity without a registered agent may not make expenditures or accept contributions until it files a written statement of change as required in subsection (2).

History.—s. 67, ch. 2005-277; s. 2, ch. 2006-300; s. 20, ch. 2010-167; ss. 6, 30, ch. 2011-6; s. 54, ch. 2011-40; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the House of Representatives over the Governor’s veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective “upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.” C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

#### 106.023 Statement of candidate.—

(1) Each candidate must file a statement with the qualifying officer within 10 days after filing the appointment of campaign treasurer and designation of campaign depository, stating that the candidate has read and understands the requirements of this chapter. Such statement shall be provided by the filing officer and shall be in substantially the following form:

#### STATEMENT OF CANDIDATE

I, \_\_\_\_\_, candidate for the office of \_\_\_\_\_, have been provided access to read and understand the requirements of Chapter 106, Florida Statutes.

\_\_\_\_\_  
(Signature of candidate)

\_\_\_\_\_  
(Date)

Willful failure to file this form is a violation of ss. 106.19(1)(c) and 106.25(3), F.S.

(2) The execution and filing of the statement of candidate does not in and of itself create a presumption that any violation of this chapter or chapter 104 is a willful violation.

History.—s. 26, ch. 90-315; s. 638, ch. 95-147; s. 15, ch. 2004-252; s. 15, ch. 2008-4; s. 55, ch. 2011-40.

#### 106.025 Campaign fund raisers.—

(1)(a) No campaign fund raiser may be held unless the person for whom such funds are to be so used is a candidate for public office.

(b) All money and contributions received with respect to such a campaign fund raiser shall be deemed to be campaign contributions, and shall be accounted for, and subject to the same restrictions, as other campaign contributions. All expenditures made with respect to such a campaign fund raiser which are made or reimbursed by a check drawn on the campaign depository of the candidate for whom the funds are to be used and shall be deemed to be campaign expenditures to be accounted for, and subject to the same restrictions, as other campaign expenditures.

(c) Any tickets or advertising for such a campaign fund raiser is exempt from the requirements of s. 106.143.

(d) Any person or candidate who holds a campaign fund raiser, or consents to a campaign fund raiser being held, in violation of the provisions of this subsection is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

<sup>1</sup>(2) This section shall not apply to any campaign fund raiser held on behalf of a political party by the state or county executive committee or an affiliated party committee of such party, provided that the proceeds of such campaign fund raiser are reported pursuant to s. 106.29.

History.—s. 40, ch. 77-175; s. 51, ch. 81-259; s. 24, ch. 81-304; s. 27, ch. 83-217; s. 4, ch. 89-256; ss. 7, 30, ch. 2011-6; s. 56, ch. 2011-40; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the House of Representatives over the Governor’s veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective “upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.” C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

#### 106.03 Registration of political committees and electioneering communications organizations.—

(1)(a) Each political committee that receives contributions or makes expenditures during a calendar year in an aggregate amount exceeding \$500 or that seeks the signatures of registered electors in

support of an initiative shall file a statement of organization as provided in subsection (3) within 10 days after its organization. If a political committee is organized within 10 days of any election, it shall immediately file the statement of organization required by this section.

<sup>1</sup>(b)1. Each group shall file a statement of organization as an electioneering communications organization within 24 hours after the date on which it makes expenditures for an electioneering communication in excess of \$5,000, if such expenditures are made within the timeframes specified in s. 106.011(18)(a)2. If the group makes expenditures for an electioneering communication in excess of \$5,000 before the timeframes specified in s. 106.011(18)(a)2., it shall file the statement of organization within 24 hours after the 30th day before a primary or special primary election, or within 24 hours after the 60th day before any other election, whichever is applicable.

2.a. In a statewide, legislative, or multicounty election, an electioneering communications organization shall file a statement of organization with the Division of Elections.

b. In a countywide election or any election held on less than a countywide basis, except as described in sub-subparagraph c., an electioneering communications organization shall file a statement of organization with the supervisor of elections of the county in which the election is being held.

c. In a municipal election, an electioneering communications organization shall file a statement of organization with the officer before whom municipal candidates qualify.

d. Any electioneering communications organization that would be required to file a statement of organization in two or more locations need only file a statement of organization with the Division of Elections.

<sup>1</sup>(2) The statement of organization shall include:

(a) The name, mailing address, and street address of the committee or electioneering communications organization;

(b) The names, street addresses, and relationships of affiliated or connected organizations;

(c) The area, scope, or jurisdiction of the committee or electioneering communications organization;

(d) The name, mailing address, street address, and position of the custodian of books and accounts;

(e) The name, mailing address, street address, and position of other principal officers, including the treasurer and deputy treasurer, if any;

(f) The name, address, office sought, and party affiliation of:

1. Each candidate whom the committee is supporting;

2. Any other individual, if any, whom the committee is supporting for nomination for election, or election, to any public office whatever;

(g) Any issue or issues the committee is supporting or opposing;

(h) If the committee is supporting the entire ticket of any party, a statement to that effect and the name of the party;

(i) A statement of whether the committee is a continuing one;

(j) Plans for the disposition of residual funds which will be made in the event of dissolution;

(k) A listing of all banks, safe-deposit boxes, or other depositories used for committee or electioneering communications organization funds;

(l) A statement of the reports required to be filed by the committee or the electioneering communications organization with federal officials, if any, and the names, addresses, and positions of such officials; and

(m) A statement of whether the electioneering communications organization was formed as a newly

created organization during the current calendar quarter or was formed from an organization existing prior to the current calendar quarter. For purposes of this subsection, calendar quarters end the last day of March, June, September, and December.

(3)(a) A political committee which is organized to support or oppose statewide, legislative, or multicounty candidates or issues to be voted upon on a statewide or multicounty basis shall file a statement of organization with the Division of Elections.

(b) Except as provided in paragraph (c), a political committee which is organized to support or oppose candidates or issues to be voted on in a countywide election or candidates or issues in any election held on less than a countywide basis shall file a statement of organization with the supervisor of elections of the county in which such election is being held.

(c) A political committee which is organized to support or oppose only candidates for municipal office or issues to be voted on in a municipal election shall file a statement of organization with the officer before whom municipal candidates qualify.

(d) Any political committee which would be required under this subsection to file a statement of organization in two or more locations need file only with the Division of Elections.

<sup>1</sup>(4) Any change in information previously submitted in a statement of organization shall be reported to the agency or officer with whom such committee or electioneering communications organization is required to register within 10 days following the change.

(5) Any committee which, after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding \$500 shall so notify the agency or officer with whom such committee is required to file the statement of organization.

(6) If the filing officer finds that a political committee has filed its statement of organization consistent with the requirements of subsection (2), it shall notify the committee in writing that it has been registered as a political committee. If the filing officer finds that a political committee's statement of organization does not meet the requirements of subsection (2), it shall notify the committee of such finding and shall state in writing the reasons for rejection of the statement of organization.

<sup>1</sup>(7) The Division of Elections shall adopt rules to prescribe the manner in which committees and electioneering communications organizations may be dissolved and have their registration canceled. Such rules shall, at a minimum, provide for:

(a) Notice which shall contain the facts and conduct which warrant the intended action, including but not limited to failure to file reports and limited activity.

(b) Adequate opportunity to respond.

(c) Appeal of the decision to the Florida Elections Commission. Such appeals shall be exempt from the confidentiality provisions of s. 106.25.

History.—s. 3, ch. 73-128; s. 3, ch. 74-200; s. 1, ch. 77-174; s. 41, ch. 77-175; s. 18, ch. 79-365; s. 25, ch. 81-304; s. 1, ch. 82-143; s. 36, ch. 84-302; s. 5, ch. 89-256; s. 27, ch. 90-315; s. 3, ch. 2006-300; s. 21, ch. 2010-167; ss. 8, 30, ch. 2011-6; s. 57, ch. 2011-40; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the House of Representatives over the Governor’s veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective “upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.” C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

#### 106.04 Committees of continuous existence.—

(1) In order to qualify as a committee of continuous existence for the purposes of this chapter, a group, organization, association, or other such entity which is involved in making contributions to candidates, political committees, or political parties, shall meet the following criteria:

(a) It shall be organized and operated in accordance with a written charter or set of bylaws which contains procedures for the election of officers and directors and which clearly defines membership in the organization; and

(b) At least 25 percent of the income of such organization, excluding interest, must be derived from dues or assessments payable on a regular basis by its membership pursuant to provisions contained in the charter or bylaws. Dues may be collected by a group, organization, association, or other such entity from its members and forwarded to the committee of continuous existence. The committee of continuous existence shall report such dues as if it had received the dues directly from its members, in the manner prescribed in subsection (4).

(2) Any group, organization, association, or other entity may seek certification from the Department of State as a committee of continuous existence by filing an application with the Division of Elections on a form provided by the division. Such application shall provide the information required of political committees by s. 106.03(2). Each application shall be accompanied by the name and street address of the principal officer of the applying entity as of the date of the application; a copy of the charter or bylaws of the organization; a copy of the dues or assessment schedule of the organization, or formula by which dues or assessments are levied; and a complete financial statement or annual audit summarizing all income received, and all expenses incurred, by the organization during the 12 months preceding the date of application. A membership list shall be made available for inspection if deemed necessary by the division.

(3) If the Division of Elections finds that an applying organization meets the criteria for a committee of continuous existence as provided by subsection (1), it shall certify such findings and notify the applying organization of such certification. If it finds that an applying organization does not meet the criteria for certification, it shall notify the organization of such findings and shall state the reasons why such criteria are not met.

(4)(a) Each committee of continuous existence shall file an annual report with the Division of Elections during the month of January. Such annual reports shall contain the same information and shall be accompanied by the same materials as original applications filed pursuant to subsection (2). However, the charter or bylaws need not be filed if the annual report is accompanied by a sworn statement by the chair that no changes have been made to such charter or bylaws since the last filing.

(b)1. Each committee of continuous existence shall file regular reports with the Division of Elections at the same times and subject to the same filing conditions as are established by s. 106.07(1) and (2) for candidates' reports. In addition, when a special election is called to fill a vacancy in office, a committee of continuous existence that makes a contribution or expenditure to influence the results of such special election or the preceding special primary election must file campaign finance reports with the filing officer on the dates set by the Department of State pursuant to s. 100.111.

2. Any committee of continuous existence failing to so file a report with the Division of Elections or applicable filing officer pursuant to this paragraph on the designated due date shall be subject to a fine for late filing as provided by this section.

<sup>1</sup>(c) All committees of continuous existence shall file their reports with the Division of Elections.

Reports shall be filed in accordance with s. 106.0705 and shall contain the following information:

1. The full name, address, and occupation of each person who has made one or more contributions, including contributions that represent the payment of membership dues, to the committee during the reporting period, together with the amounts and dates of such contributions. For corporations, the report must provide as clear a description as practicable of the principal type of business conducted by the corporation. However, if the contribution is \$100 or less, the occupation of the contributor or principal type of business need not be listed. However, for any contributions that represent the payment of dues by members in a fixed amount aggregating no more than \$250 per calendar year, pursuant to the schedule on file with the Division of Elections, only the aggregate amount of such contributions need be listed, together with the number of members paying such dues and the amount of the membership dues.

2. The name and address of each political committee or committee of continuous existence from which the reporting committee received, or the name and address of each political committee, committee of continuous existence, affiliated party committee, or political party to which it made, any transfer of funds, together with the amounts and dates of all transfers.

3. Any other receipt of funds not listed pursuant to subparagraph 1. or subparagraph 2., including the sources and amounts of all such funds.

4. The name and address of, and office sought by, each candidate to whom the committee has made a contribution during the reporting period, together with the amount and date of each contribution.

5. The full name and address of each person to whom expenditures have been made by or on behalf of the committee within the reporting period; the amount, date, and purpose of each such expenditure; and the name and address, and office sought by, each candidate on whose behalf such expenditure was made.

6. The full name and address of each person to whom an expenditure for personal services, salary, or reimbursement for authorized expenses has been made, including the full name and address of each entity to whom the person made payment for which reimbursement was made by check drawn upon the committee account, together with the amount and purpose of such payment.

7. Transaction information from each credit card purchase. Receipts for each credit card purchase shall be retained by the treasurer with the records for the committee account.

8. The total sum of expenditures made by the committee during the reporting period.

(d) The treasurer of each committee shall certify as to the correctness of each report and shall bear the responsibility for its accuracy and veracity. Any treasurer who willfully certifies to the correctness of a report while knowing that such report is incorrect, false, or incomplete commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

<sup>1</sup>(5) No committee of continuous existence shall make an electioneering communication, contribute to any candidate or political committee an amount in excess of the limits contained in s. 106.08(1), or participate in any activity which is prohibited by this chapter. If any violation occurs, it shall be punishable as provided in this chapter for the given offense. No funds of a committee of continuous existence shall be expended on behalf of a candidate, except by means of a contribution made through the duly appointed campaign treasurer of a candidate. No such committee shall make expenditures in support of, or in opposition to, an issue unless such committee first registers as a political committee pursuant to this chapter and undertakes all the practices and procedures required thereof; provided such committee may make contributions in a total amount not to exceed 25 percent of its aggregate income, as reflected in the annual report filed for the previous year, to one or more political committees registered pursuant to s. 106.03 and formed to support or oppose issues.

(6) All accounts and records of a committee of continuous existence may be inspected under reasonable circumstances by any authorized representative of the Division of Elections or the Florida Elections Commission. The right of inspection may be enforced by appropriate writ issued by any court of competent jurisdiction.

(7) Any change in information previously submitted to the division shall be reported within 10 days following the change.

(8) If a committee of continuous existence ceases to meet the criteria prescribed by subsection (1), the Division of Elections shall revoke its certification. The Division of Elections shall adopt rules to prescribe the manner in which the certification of a committee of continuous existence shall be revoked. Such rules shall, at a minimum, provide for:

(a) Notice, which must contain the facts and conduct that warrant the intended action.

(b) Adequate opportunity to respond.

(c) Appeal of the decision to the Florida Elections Commission. Such appeals are exempt from the confidentiality provisions of s. 106.25.

(9)(a) Any committee of continuous existence failing to file a report on the designated due date is subject to a fine. The fine shall be \$50 per day for the first 3 days late and, thereafter, \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. However, for the reports immediately preceding each primary and general election, including a special primary election and a special general election, the fine shall be \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. The fine shall be assessed by the filing officer, and the moneys collected shall be deposited into:

1. The General Revenue Fund, in the case of fines collected by the Division of Elections.

2. The general revenue fund of the political subdivision, in the case of fines collected by a county or municipal filing officer. No separate fine shall be assessed for failure to file a copy of any report required by this section.

(b) Upon determining that a report is late, the filing officer shall immediately notify the treasurer of the committee or the committee's registered agent as to the failure to file a report by the designated due date and that a fine is being assessed for each late day. Upon receipt of the report, the filing officer shall determine the amount of fine which is due and shall notify the treasurer of the committee. Notice is deemed complete upon proof of delivery of written notice to the mailing or street address on record with the filing officer. The filing officer shall determine the amount of the fine due based upon the earliest of the following:

1. When the report is actually received by such officer.

2. When the report is postmarked.

3. When the certificate of mailing is dated.

4. When the receipt from an established courier company is dated.

Such fine shall be paid to the filing officer within 20 days after receipt of the notice of payment due, unless appeal is made to the Florida Elections Commission pursuant to paragraph (c). An officer or member of a committee is not personally liable for such fine.

(c) Any treasurer of a committee may appeal or dispute the fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and is entitled to a hearing before the Florida Elections Commission, which may waive the fine in whole or in part. Any such request

must be made within 20 days after receipt of the notice of payment due. The committee shall file the appeal with the commission, with a copy provided to the filing officer.

(d) The filing officer shall notify the Florida Elections Commission of the repeated late filing by a committee of continuous existence, the failure of a committee of continuous existence to file a report after notice, or the failure to pay the fine imposed.

History.—s. 4, ch. 73-128; ss. 4, 16, ch. 74-200; s. 1, ch. 77-174; s. 42, ch. 77-175; s. 57, ch. 79-400; s. 26, ch. 81-304; s. 5, ch. 85-226; s. 6, ch. 89-256; s. 28, ch. 90-315; s. 1, ch. 90-338; ss. 6, 12, ch. 91-107; s. 1, ch. 95-140; s. 639, ch. 95-147; s. 6, ch. 97-13; ss. 3, 16, ch. 2004-252; s. 4, ch. 2006-300; s. 42, ch. 2007-30; s. 22, ch. 2010-167; ss. 9, 30, ch. 2011-6; s. 58, ch. 2011-40; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the House of Representatives over the Governor’s veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective “upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.” C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

**106.05 Deposit of contributions; statement of campaign treasurer.**—All funds received by the campaign treasurer of any candidate or political committee shall, prior to the end of the 5th business day following the receipt thereof, Saturdays, Sundays, and legal holidays excluded, be deposited in a campaign depository designated pursuant to s. 106.021, in an account designated “ (name of candidate or committee) Campaign Account.” Except for contributions to political committees made by payroll deduction, all deposits shall be accompanied by a bank deposit slip containing the name of each contributor and the amount contributed by each. If a contribution is deposited in a secondary campaign depository, the depository shall forward the full amount of the deposit, along with a copy of the deposit slip accompanying the deposit, to the primary campaign depository prior to the end of the 1st business day following the deposit.

History.—s. 5, ch. 73-128; s. 1, ch. 76-88; s. 1, ch. 77-174; s. 43, ch. 77-175; s. 7, ch. 89-256; s. 29, ch. 90-315.

**106.055 Valuation of in-kind contributions.**—Any person who makes an in-kind contribution shall, at the time of making such contribution, place a value on such contribution, which valuation shall be the fair market value of such contribution. Travel conveyed upon private aircraft shall be valued at the actual cost of per person commercial air travel for the same or a substantially similar route.

History.—s. 44, ch. 77-175; s. 43, ch. 2007-30.

**106.06 Treasurer to keep records; inspections.**—

(1) The campaign treasurer of each candidate and the campaign treasurer of each political committee shall keep detailed accounts, current within not more than 2 days after the date of receiving a contribution or making an expenditure, of all contributions received and all expenditures made by or on behalf of the candidate or political committee that are required to be set forth in a statement filed under this chapter. The campaign treasurer shall also keep detailed accounts of all deposits made in any separate interest-bearing account or certificate of deposit and of all withdrawals made therefrom to the primary depository and of all interest earned thereon.

(2) Accounts, including separate interest-bearing accounts and certificates of deposit, kept by the campaign treasurer of a candidate or political committee may be inspected under reasonable circumstances before, during, or after the election to which the accounts refer by any authorized representative of the Division of Elections or the Florida Elections Commission. The right of inspection may be enforced by appropriate writ issued by any court of competent jurisdiction. The campaign

treasurer of a political committee supporting a candidate may be joined with the campaign treasurer of the candidate as respondent in such a proceeding.

(3) Accounts kept by a campaign treasurer of a candidate shall be preserved by the campaign treasurer for a number of years equal to the term of office of the office to which the candidate seeks election. Accounts kept by a campaign treasurer of a political committee shall be preserved by such treasurer for at least 2 years after the date of the election to which the accounts refer.

History.—s. 6, ch. 73-128; s. 45, ch. 77-175; s. 3, ch. 79-378; s. 8, ch. 89-256; s. 30, ch. 90-315.

#### 106.07 Reports; certification and filing.—

(1) Each campaign treasurer designated by a candidate or political committee pursuant to s. 106.021 shall file regular reports of all contributions received, and all expenditures made, by or on behalf of such candidate or political committee. Except for the third calendar quarter immediately preceding a general election, reports shall be filed on the 10th day following the end of each calendar quarter from the time the campaign treasurer is appointed, except that, if the 10th day following the end of a calendar quarter occurs on a Saturday, Sunday, or legal holiday, the report shall be filed on the next following day which is not a Saturday, Sunday, or legal holiday. Quarterly reports shall include all contributions received and expenditures made during the calendar quarter which have not otherwise been reported pursuant to this section.

(a) Except as provided in paragraph (b), the reports shall also be filed on the 32nd, 18th, and 4th days immediately preceding the primary and on the 46th, 32nd, 18th, and 4th days immediately preceding the election, for a candidate who is opposed in seeking nomination or election to any office, for a political committee, or for a committee of continuous existence.

(b) Any statewide candidate who has requested to receive contributions pursuant to the Florida Election Campaign Financing Act or any statewide candidate in a race with a candidate who has requested to receive contributions pursuant to the act shall also file reports on the 4th, 11th, 18th, 25th, and 32nd days prior to the primary election, and on the 4th, 11th, 18th, 25th, 32nd, 39th, 46th, and 53rd days prior to the general election.

(c) Following the last day of qualifying for office, any unopposed candidate need only file a report within 90 days after the date such candidate became unopposed. Such report shall contain all previously unreported contributions and expenditures as required by this section and shall reflect disposition of funds as required by s. 106.141.

(d)1. When a special election is called to fill a vacancy in office, all political committees making contributions or expenditures to influence the results of such special election or the preceding special primary election shall file campaign treasurers' reports with the filing officer on the dates set by the Department of State pursuant to s. 100.111.

2. When an election is called for an issue to appear on the ballot at a time when no candidates are scheduled to appear on the ballot, all political committees making contributions or expenditures in support of or in opposition to such issue shall file reports on the 18th and 4th days prior to such election.

(e) The filing officer shall provide each candidate with a schedule designating the beginning and end of reporting periods as well as the corresponding designated due dates.

(2)(a)1. All reports required of a candidate by this section shall be filed with the officer before whom the candidate is required by law to qualify. All candidates who file with the Department of State shall file their reports pursuant to s. 106.0705. Except as provided in s. 106.0705, reports shall be filed

not later than 5 p.m. of the day designated; however, any report postmarked by the United States Postal Service no later than midnight of the day designated shall be deemed to have been filed in a timely manner. Any report received by the filing officer within 5 days after the designated due date that was delivered by the United States Postal Service shall be deemed timely filed unless it has a postmark that indicates that the report was mailed after the designated due date. A certificate of mailing obtained from and dated by the United States Postal Service at the time of mailing, or a receipt from an established courier company, which bears a date on or before the date on which the report is due, shall be proof of mailing in a timely manner. Reports shall contain information of all previously unreported contributions received and expenditures made as of the preceding Friday, except that the report filed on the Friday immediately preceding the election shall contain information of all previously unreported contributions received and expenditures made as of the day preceding that designated due date. All such reports shall be open to public inspection.

2. This subsection does not prohibit the governing body of a political subdivision, by ordinance or resolution, from imposing upon its own officers and candidates electronic filing requirements not in conflict with s. 106.0705. Expenditure of public funds for such purpose is deemed to be for a valid public purpose.

(b)1. Any report that is deemed to be incomplete by the officer with whom the candidate qualifies shall be accepted on a conditional basis. The campaign treasurer shall be notified by certified mail or by another method using a common carrier that provides a proof of delivery of the notice as to why the report is incomplete and within 7 days after receipt of such notice must file an addendum to the report providing all information necessary to complete the report in compliance with this section. Failure to file a complete report after such notice constitutes a violation of this chapter.

2. Notice is deemed complete upon proof of delivery of a written notice to the mailing or street address of the campaign treasurer or registered agent of record with the filing officer.

(3) Reports required of a political committee shall be filed with the agency or officer before whom such committee registers pursuant to s. 106.03(3) and shall be subject to the same filing conditions as established for candidates' reports. Incomplete reports by political committees shall be treated in the manner provided for incomplete reports by candidates in subsection (2).

(4)(a) Each report required by this section must contain:

1. The full name, address, and occupation, if any of each person who has made one or more contributions to or for such committee or candidate within the reporting period, together with the amount and date of such contributions. For corporations, the report must provide as clear a description as practicable of the principal type of business conducted by the corporation. However, if the contribution is \$100 or less or is from a relative, as defined in s. 112.312, provided that the relationship is reported, the occupation of the contributor or the principal type of business need not be listed.

2. The name and address of each political committee from which the reporting committee or the candidate received, or to which the reporting committee or candidate made, any transfer of funds, together with the amounts and dates of all transfers.

3. Each loan for campaign purposes to or from any person or political committee within the reporting period, together with the full names, addresses, and occupations, and principal places of business, if any, of the lender and endorsers, if any, and the date and amount of such loans.

4. A statement of each contribution, rebate, refund, or other receipt not otherwise listed under subparagraphs 1. through 3.

5. The total sums of all loans, in-kind contributions, and other receipts by or for such committee or

candidate during the reporting period. The reporting forms shall be designed to elicit separate totals for in-kind contributions, loans, and other receipts.

6. The full name and address of each person to whom expenditures have been made by or on behalf of the committee or candidate within the reporting period; the amount, date, and purpose of each such expenditure; and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made. However, expenditures made from the petty cash fund provided by s. 106.12 need not be reported individually.

7. The full name and address of each person to whom an expenditure for personal services, salary, or reimbursement for authorized expenses as provided in s. 106.021(3) has been made and which is not otherwise reported, including the amount, date, and purpose of such expenditure. However, expenditures made from the petty cash fund provided for in s. 106.12 need not be reported individually. Receipts for reimbursement for authorized expenditures shall be retained by the treasurer along with the records for the campaign account.

8. The total amount withdrawn and the total amount spent for petty cash purposes pursuant to this chapter during the reporting period.

9. The total sum of expenditures made by such committee or candidate during the reporting period.

10. The amount and nature of debts and obligations owed by or to the committee or candidate, which relate to the conduct of any political campaign.

11. Transaction information for each credit card purchase. Receipts for each credit card purchase shall be retained by the treasurer with the records for the campaign account.

12. The amount and nature of any separate interest-bearing accounts or certificates of deposit and identification of the financial institution in which such accounts or certificates of deposit are located.

13. The primary purposes of an expenditure made indirectly through a campaign treasurer pursuant to s. 106.021(3) for goods and services such as communications media placement or procurement services, campaign signs, insurance, and other expenditures that include multiple components as part of the expenditure. The primary purpose of an expenditure shall be that purpose, including integral and directly related components, that comprises 80 percent of such expenditure.

(b) The filing officer shall make available to any candidate or committee a reporting form which the candidate or committee may use to indicate contributions received by the candidate or committee but returned to the contributor before deposit.

(5) The candidate and his or her campaign treasurer, in the case of a candidate, or the political committee chair and campaign treasurer of the committee, in the case of a political committee, shall certify as to the correctness of each report; and each person so certifying shall bear the responsibility for the accuracy and veracity of each report. Any campaign treasurer, candidate, or political committee chair who willfully certifies the correctness of any report while knowing that such report is incorrect, false, or incomplete commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(6) The records maintained by the campaign depository with respect to any campaign account regulated by this chapter are subject to inspection by an agent of the Division of Elections or the Florida Elections Commission at any time during normal banking hours, and such depository shall furnish certified copies of any of such records to the Division of Elections or Florida Elections Commission upon request.

(7) Notwithstanding any other provisions of this chapter, in any reporting period during which a candidate, political committee, or committee of continuous existence has not received funds, made any

contributions, or expended any reportable funds, the filing of the required report for that period is waived. However, the next report filed must specify that the report covers the entire period between the last submitted report and the report being filed, and any candidate, political committee, or committee of continuous existence not reporting by virtue of this subsection on dates prescribed elsewhere in this chapter shall notify the filing officer in writing on the prescribed reporting date that no report is being filed on that date.

(8)(a) Any candidate or political committee failing to file a report on the designated due date is subject to a fine as provided in paragraph (b) for each late day, and, in the case of a candidate, such fine shall be paid only from personal funds of the candidate. The fine shall be assessed by the filing officer and the moneys collected shall be deposited:

1. In the General Revenue Fund, in the case of a candidate for state office or a political committee that registers with the Division of Elections; or
2. In the general revenue fund of the political subdivision, in the case of a candidate for an office of a political subdivision or a political committee that registers with an officer of a political subdivision.

No separate fine shall be assessed for failure to file a copy of any report required by this section.

(b) Upon determining that a report is late, the filing officer shall immediately notify the candidate or chair of the political committee as to the failure to file a report by the designated due date and that a fine is being assessed for each late day. The fine shall be \$50 per day for the first 3 days late and, thereafter, \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. However, for the reports immediately preceding each special primary election, special election, primary election, and general election, the fine shall be \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. For reports required under s. 106.141(7), the fine is \$50 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. Upon receipt of the report, the filing officer shall determine the amount of the fine which is due and shall notify the candidate or chair or registered agent of the political committee. The filing officer shall determine the amount of the fine due based upon the earliest of the following:

1. When the report is actually received by such officer.
2. When the report is postmarked.
3. When the certificate of mailing is dated.
4. When the receipt from an established courier company is dated.
5. When the electronic receipt issued pursuant to s. 106.0705 or other electronic filing system authorized in this section is dated.

Such fine shall be paid to the filing officer within 20 days after receipt of the notice of payment due, unless appeal is made to the Florida Elections Commission pursuant to paragraph (c). Notice is deemed complete upon proof of delivery of written notice to the mailing or street address on record with the filing officer. In the case of a candidate, such fine shall not be an allowable campaign expenditure and shall be paid only from personal funds of the candidate. An officer or member of a political committee shall not be personally liable for such fine.

(c) Any candidate or chair of a political committee may appeal or dispute the fine, based upon, but not limited to, unusual circumstances surrounding the failure to file on the designated due date, and may request and shall be entitled to a hearing before the Florida Elections Commission, which shall have

the authority to waive the fine in whole or in part. The Florida Elections Commission must consider the mitigating and aggravating circumstances contained in s. 106.265(1) when determining the amount of a fine, if any, to be waived. Any such request shall be made within 20 days after receipt of the notice of payment due. In such case, the candidate or chair of the political committee shall, within the 20-day period, notify the filing officer in writing of his or her intention to bring the matter before the commission.

(d) The appropriate filing officer shall notify the Florida Elections Commission of the repeated late filing by a candidate or political committee, the failure of a candidate or political committee to file a report after notice, or the failure to pay the fine imposed. The commission shall investigate only those alleged late filing violations specifically identified by the filing officer and as set forth in the notification. Any other alleged violations must be separately stated and reported by the division to the commission under s. 106.25(2).

(9) The Department of State may prescribe by rule the requirements for filing campaign treasurers' reports as set forth in this chapter.

History.—s. 7, ch. 73-128; ss. 5, 15, 17, ch. 74-200; ss. 1, 2, ch. 75-8; s. 2, ch. 75-139; s. 1, ch. 77-174; s. 46, ch. 77-175; s. 23, ch. 79-164; ss. 7, 8, ch. 79-365; s. 4, ch. 79-378; s. 58, ch. 79-400; s. 52, ch. 81-259; s. 27, ch. 81-304; s. 2, ch. 82-143; s. 11, ch. 83-251; s. 37, ch. 84-302; s. 6, ch. 85-226; s. 1, ch. 86-134; s. 13, ch. 87-224; s. 9, ch. 89-256; s. 31, ch. 90-315; s. 2, ch. 90-338; s. 18, ch. 90-502; s. 7, ch. 91-107; s. 2, ch. 95-140; s. 640, ch. 95-147; s. 15, ch. 95-280; s. 7, ch. 97-13; s. 6, ch. 2001-75; s. 29, ch. 2002-17; s. 2, ch. 2002-197; s. 8, ch. 2003-1; ss. 17, 18, ch. 2004-252; s. 24, ch. 2005-286; ss. 5, 10, ch. 2006-300; s. 29, ch. 2008-95; s. 59, ch. 2011-40.

**106.0701 Solicitation of contributions on behalf of s. 527 or s. 501(c)(4) organizations; reporting requirements; civil penalty; exemption.—**

(1) The Governor, Lieutenant Governor, members of the Cabinet, state legislators, or candidates for such offices who directly or indirectly solicit, cause to be solicited, or accept any contribution on behalf of an organization that is exempt from taxation under s. 527 or s. 501(c)(4) of the Internal Revenue Code, which such individuals, in whole or in part, establish, maintain, or control, shall file a statement with the division within 5 days after commencing such activity on behalf of the organization. The statement shall contain the following information:

- (a) The name of the person acting on behalf of the organization.
- (b) The name and type of the organization.
- (c) A description of the relationship between the person and the organization.

(2) Failure to timely file the statement shall subject the person to a civil penalty of \$50 per day for each late day, payable from the personal funds of the violator.

(3) Upon filing a statement with the division, an individual subject to the requirements of subsection (1) shall promptly create a public website that contains a mission statement and the names of persons associated with the organization. The address of the website shall be reported to the division within 5 business days after the website is created.

(4) All contributions received shall be disclosed on the website within 5 business days after deposit, together with the name, address, and occupation of the donor. All expenditures by the organization shall be individually disclosed on the website within 5 business days after being made.

<sup>1</sup>(5) The filing requirements of subsection (1) do not apply to an individual acting on behalf of his or her own campaign, a political party, or an affiliated party committee of which the individual is a member.

History.—s. 6, ch. 2006-300; ss. 10, 30, ch. 2011-6; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the House of Representatives over the Governor’s veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective “upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.” C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

**<sup>1</sup>106.0703 Electioneering communications organizations; reporting requirements; certification and filing; penalties.—**

(1)(a) Each electioneering communications organization shall file regular reports of all contributions received and all expenditures made by or on behalf of the organization. Reports shall be filed on the 10th day following the end of each calendar quarter from the time the organization is registered. However, if the 10th day following the end of a calendar quarter occurs on a Saturday, Sunday, or legal holiday, the report shall be filed on the next following day that is not a Saturday, Sunday, or legal holiday. Quarterly reports shall include all contributions received and expenditures made during the calendar quarter that have not otherwise been reported pursuant to this section.

(b) Following the last day of candidates qualifying for office, the reports shall be filed on the 32nd, 18th, and 4th days immediately preceding the primary election and on the 46th, 32nd, 18th, and 4th days immediately preceding the general election.

(c) When a special election is called to fill a vacancy in office, all electioneering communications organizations making contributions or expenditures to influence the results of the special election shall file reports with the filing officer on the dates set by the Department of State pursuant to s. 100.111.

(d) In addition to the reports required by paragraph (a), an electioneering communications organization that is registered with the Department of State and that makes a contribution or expenditure to influence the results of a county or municipal election that is not being held at the same time as a state or federal election must file reports with the county or municipal filing officer on the same dates as county or municipal candidates or committees for that election. The electioneering communications organization must also include the expenditure in the next report filed with the Division of Elections pursuant to this section following the county or municipal election.

(e) The filing officer shall make available to each electioneering communications organization a schedule designating the beginning and end of reporting periods as well as the corresponding designated due dates.

(2)(a) Except as provided in s. 106.0705, the reports required of an electioneering communications organization shall be filed with the filing officer not later than 5 p.m. of the day designated. However, any report postmarked by the United States Postal Service no later than midnight of the day designated shall be deemed to have been filed in a timely manner. Any report received by the filing officer within 5 days after the designated due date that was delivered by the United States Postal Service shall be deemed timely filed unless it has a postmark that indicates that the report was mailed after the designated due date. A certificate of mailing obtained from and dated by the United States Postal Service at the time of mailing, or a receipt from an established courier company, which bears a date on or before the date on which the report is due, shall be proof of mailing in a timely manner. Reports shall contain information of all previously unreported contributions received and expenditures made as of the preceding Friday, except that the report filed on the Friday immediately preceding the election shall contain information of all previously unreported contributions received and expenditures made as of the day preceding the designated due date. All such reports shall be open to public inspection.

(b)1. Any report that is deemed to be incomplete by the officer with whom the electioneering communications organization files shall be accepted on a conditional basis. The treasurer of the electioneering communications organization shall be notified, by certified mail or other common carrier that can establish proof of delivery for the notice, as to why the report is incomplete. Within 7 days after receipt of such notice, the treasurer must file an addendum to the report providing all information necessary to complete the report in compliance with this section. Failure to file a complete report after such notice constitutes a violation of this chapter.

2. Notice is deemed sufficient upon proof of delivery of written notice to the mailing or street address of the treasurer or registered agent of the electioneering communication organization on record with the filing officer.

(3)(a) Each report required by this section must contain:

1. The full name, address, and occupation, if any, of each person who has made one or more contributions to or for such electioneering communications organization within the reporting period, together with the amount and date of such contributions. For corporations, the report must provide as clear a description as practicable of the principal type of business conducted by the corporation. However, if the contribution is \$100 or less, the occupation of the contributor or the principal type of business need not be listed.

2. The name and address of each political committee from which or to which the reporting electioneering communications organization made any transfer of funds, together with the amounts and dates of all transfers.

3. Each loan for electioneering communication purposes to or from any person or political committee within the reporting period, together with the full names, addresses, and occupations and principal places of business, if any, of the lender and endorsers, if any, and the date and amount of such loans.

4. A statement of each contribution, rebate, refund, or other receipt not otherwise listed under subparagraphs 1.-3.

5. The total sums of all loans, in-kind contributions, and other receipts by or for such electioneering communications organization during the reporting period. The reporting forms shall be designed to elicit separate totals for in-kind contributions, loans, and other receipts.

6. The full name and address of each person to whom expenditures have been made by or on behalf of the electioneering communications organization within the reporting period and the amount, date, and purpose of each expenditure.

7. The full name and address of each person to whom an expenditure for personal services, salary, or reimbursement for expenses has been made and that is not otherwise reported, including the amount, date, and purpose of the expenditure.

8. The total sum of expenditures made by the electioneering communications organization during the reporting period.

9. The amount and nature of debts and obligations owed by or to the electioneering communications organization that relate to the conduct of any electioneering communication.

10. Transaction information for each credit card purchase. Receipts for each credit card purchase shall be retained by the electioneering communications organization.

11. The amount and nature of any separate interest-bearing accounts or certificates of deposit and identification of the financial institution in which such accounts or certificates of deposit are located.

12. The primary purposes of an expenditure made indirectly through an electioneering

communications organization for goods and services, such as communications media placement or procurement services and other expenditures that include multiple components as part of the expenditure. The primary purpose of an expenditure shall be that purpose, including integral and directly related components, that comprises 80 percent of such expenditure.

(b) The filing officer shall make available to any electioneering communications organization a reporting form which the electioneering communications organization may use to indicate contributions received by the electioneering communications organization but returned to the contributor before deposit.

(4) The treasurer of the electioneering communications organization shall certify as to the correctness of each report, and each person so certifying shall bear the responsibility for the accuracy and veracity of each report. Any treasurer who willfully certifies the correctness of any report while knowing that such report is incorrect, false, or incomplete commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(5) The electioneering communications organization depository shall provide statements reflecting deposits and expenditures from the account to the treasurer, who shall retain the records pursuant to s. 106.06. The records maintained by the depository with respect to the account shall be subject to inspection by an agent of the Division of Elections or the Florida Elections Commission at any time during normal banking hours, and such depository shall furnish certified copies of any such records to the Division of Elections or the Florida Elections Commission upon request.

(6) Notwithstanding any other provisions of this chapter, in any reporting period during which an electioneering communications organization has not received funds, made any contributions, or expended any reportable funds, the treasurer shall file a written report with the filing officer by the prescribed reporting date that no reportable contributions or expenditures were made during the reporting period.

(7)(a) Any electioneering communications organization failing to file a report on the designated due date shall be subject to a fine as provided in paragraph (b) for each late day. The fine shall be assessed by the filing officer, and the moneys collected shall be deposited:

1. In the General Revenue Fund, in the case of an electioneering communications organization that registers with the Division of Elections; or
2. In the general revenue fund of the political subdivision, in the case of an electioneering communications organization that registers with an officer of a political subdivision.

No separate fine shall be assessed for failure to file a copy of any report required by this section.

(b) Upon determining that a report is late, the filing officer shall immediately notify the electioneering communications organization as to the failure to file a report by the designated due date and that a fine is being assessed for each late day. The fine shall be \$50 per day for the first 3 days late and, thereafter, \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. However, for the reports immediately preceding each primary and general election, the fine shall be \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. Upon receipt of the report, the filing officer shall determine the amount of the fine which is due and shall notify the electioneering communications organization. The filing officer shall determine the amount of the fine due based upon the earliest of the following:

1. When the report is actually received by such officer.

2. When the report is postmarked.
3. When the certificate of mailing is dated.
4. When the receipt from an established courier company is dated.
5. When the electronic receipt issued pursuant to s. 106.0705 or other electronic filing system authorized in this section is dated.

Such fine shall be paid to the filing officer within 20 days after receipt of the notice of payment due, unless appeal is made to the Florida Elections Commission pursuant to paragraph (c). Notice is deemed sufficient upon proof of delivery of written notice to the mailing or street address on record with the filing officer. An officer or member of an electioneering communications organization shall not be personally liable for such fine.

(c) The treasurer of an electioneering communications organization may appeal or dispute the fine, based upon, but not limited to, unusual circumstances surrounding the failure to file on the designated due date, and may request and shall be entitled to a hearing before the Florida Elections Commission, which shall have the authority to waive the fine in whole or in part. The Florida Elections Commission must consider the mitigating and aggravating circumstances contained in s. 106.265(1) when determining the amount of a fine, if any, to be waived. Any such request shall be made within 20 days after receipt of the notice of payment due. In such case, the treasurer of the electioneering communications organization shall, within the 20-day period, notify the filing officer in writing of his or her intention to bring the matter before the commission.

(d) The appropriate filing officer shall notify the Florida Elections Commission of the repeated late filing by an electioneering communications organization, the failure of an electioneering communications organization to file a report after notice, or the failure to pay the fine imposed. The commission shall investigate only those alleged late filing violations specifically identified by the filing officer and as set forth in the notification. Any other alleged violations must be stated separately and reported by the division to the commission under s. 106.25(2).

(8) Electioneering communications organizations shall not use credit cards.

History.—s. 7, ch. 2006-300; s. 23, ch. 2010-167; ss. 11, 30, ch. 2011-6; s. 60, ch. 2011-40; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the House of Representatives over the Governor’s veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective “upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.” C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

**106.0705 Electronic filing of campaign treasurer’s reports.—**

(1) As used in this section, “electronic filing system” means an Internet system for recording and reporting campaign finance activity by reporting period.

(2)(a) Each individual who is required to file reports with the division pursuant to s. 106.07 or s. 106.141 must file such reports by means of the division’s electronic filing system.

<sup>1</sup>(b) Each political committee, committee of continuous existence, electioneering communications organization, affiliated party committee, or state executive committee that is required to file reports with the division under s. 106.04, s. 106.07, s. 106.0703, or s. 106.29, as applicable, must file such reports with the division by means of the division’s electronic filing system.

(c) Each person or organization that is required to file reports with the division under s. 106.071

must file such reports by means of the division's electronic filing system.

<sup>1</sup>(3) Reports filed pursuant to this section shall be completed and filed through the electronic filing system not later than midnight of the day designated. Reports not filed by midnight of the day designated are late filed and are subject to the penalties under s. 106.04(9), s. 106.07(8), s. 106.0703(7), or s. 106.29(3), as applicable.

<sup>1</sup>(4) Each report filed pursuant to this section is considered to be under oath by the candidate and treasurer, the chair and treasurer, the treasurer under s. 106.0703, or the leader and treasurer under s. 103.092, whichever is applicable, and such persons are subject to the provisions of s. 106.04(4)(d), s. 106.07(5), s. 106.0703(4), or s. 106.29(2), as applicable. Persons given a secure sign-on to the electronic filing system are responsible for protecting such from disclosure and are responsible for all filings using such credentials, unless they have notified the division that their credentials have been compromised.

(5) The electronic filing system developed by the division must:

(a) Be based on access by means of the Internet.

(b) Be accessible by anyone with Internet access using standard web-browsing software.

(c) Provide for direct entry of campaign finance information as well as upload of such information from campaign finance software certified by the division.

(d) Provide a method that prevents unauthorized access to electronic filing system functions.

(6) The division shall adopt rules pursuant to ss. 120.536(1) and 120.54 to administer this section and provide for the reports required to be filed pursuant to this section. Such rules shall, at a minimum, provide:

(a) Alternate filing procedures in case the division's electronic filing system is not operable.

(b) For the issuance of an electronic receipt to the person submitting the report indicating and verifying that the report has been filed.

History.—s. 19, ch. 2004-252; s. 45, ch. 2005-278; s. 8, ch. 2006-300; s. 24, ch. 2010-167; ss. 12, 30, ch. 2011-6; s. 61, ch. 2011-40; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the House of Representatives over the Governor's veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective “upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.” C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

**106.0706 Electronic filing of campaign finance reports; public records exemption.—**

(1) All user identifications and passwords held by the Department of State pursuant to s. 106.0705 are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(2)(a) Information entered in the electronic filing system for purposes of generating a report pursuant to s. 106.0705 is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

(b) Information entered in the electronic filing system is no longer exempt once the report is generated and filed with the Division of Elections.

History.—s. 1, ch. 2004-253; s. 16, ch. 2008-4; s. 1, ch. 2009-149.

**106.071 Independent expenditures; electioneering communications; reports; disclaimers.—**

<sup>1</sup>(1) Each person who makes an independent expenditure with respect to any candidate or issue, and each individual who makes an expenditure for an electioneering communication which is not otherwise reported pursuant to this chapter, which expenditure, in the aggregate, is in the amount of \$5,000 or more, shall file periodic reports of such expenditures in the same manner, at the same time, subject to

the same penalties, and with the same officer as a political committee supporting or opposing such candidate or issue. The report shall contain the full name and address of the person making the expenditure; the full name and address of each person to whom and for whom each such expenditure has been made; the amount, date, and purpose of each such expenditure; a description of the services or goods obtained by each such expenditure; the issue to which the expenditure relates; and the name and address of, and office sought by, each candidate on whose behalf such expenditure was made.

(2) Any political advertisement paid for by an independent expenditure shall prominently state “Paid political advertisement paid for by (Name and address of person paying for advertisement) independently of any (candidate or committee).”

(3) Subsection (2) does not apply to novelty items having a retail value of \$10 or less which support, but do not oppose, a candidate or issue.

(4) Any person who fails to include the disclaimer prescribed in subsection (2) in any political advertisement that is required to contain such disclaimer commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 47, ch. 77-175; s. 10, ch. 89-256; s. 4, ch. 2004-252; s. 25, ch. 2010-167; ss. 13, 30, ch. 2011-6; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the House of Representatives over the Governor’s veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective “upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.” C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

#### 106.075 Elected officials; report of loans made in year preceding election; limitation on contributions to pay loans.—

(1) A person who is elected to office must report all loans, exceeding \$500 in value, made to him or her and used for campaign purposes, and made in the 12 months preceding his or her election to office, to the filing officer. The report must be made, in the manner prescribed by the Department of State, within 10 days after being elected to office.

(2) Any person who makes a contribution to an individual to pay all or part of a loan incurred, in the 12 months preceding the election, to be used for the individual’s campaign, may not contribute more than the amount which is allowed in s. 106.08(1).

History.—s. 11, ch. 89-256; s. 32, ch. 90-315; s. 12, ch. 91-107; s. 641, ch. 95-147.

#### 106.08 Contributions; limitations on.—

<sup>1</sup>(1)(a) Except for political parties or affiliated party committees, no person, political committee, or committee of continuous existence may, in any election, make contributions in excess of \$500 to any candidate for election to or retention in office or to any political committee supporting or opposing one or more candidates. Candidates for the offices of Governor and Lieutenant Governor on the same ticket are considered a single candidate for the purpose of this section.

(b)1. The contribution limits provided in this subsection do not apply to contributions made by a state or county executive committee of a political party or affiliated party committee regulated by chapter 103 or to amounts contributed by a candidate to his or her own campaign.

2. Notwithstanding the limits provided in this subsection, an unemancipated child under the age of 18 years of age may not make a contribution in excess of \$100 to any candidate or to any political committee supporting one or more candidates.

(c) The contribution limits of this subsection apply to each election. For purposes of this subsection, the primary election and general election are separate elections so long as the candidate is not an unopposed candidate as defined in s. 106.011(15). However, for the purpose of contribution limits with respect to candidates for retention as a justice or judge, there is only one election, which is the general election.

<sup>1</sup>(2)(a) A candidate may not accept contributions from national, state, or county executive committees of a political party, including any subordinate committee of such political party or affiliated party committees, which contributions in the aggregate exceed \$50,000.

(b) A candidate for statewide office may not accept contributions from national, state, or county executive committees of a political party, including any subordinate committee of the political party, or affiliated party committees, which contributions in the aggregate exceed \$250,000. Polling services, research services, costs for campaign staff, professional consulting services, and telephone calls are not contributions to be counted toward the contribution limits of paragraph (a) or this paragraph. Any item not expressly identified in this paragraph as nonallocable is a contribution in an amount equal to the fair market value of the item and must be counted as allocable toward the contribution limits of paragraph (a) or this paragraph. Nonallocable, in-kind contributions must be reported by the candidate under s. 106.07 and by the political party or affiliated party committee under s. 106.29.

(3)(a) Any contribution received by a candidate with opposition in an election or by the campaign treasurer or a deputy campaign treasurer of such a candidate on the day of that election or less than 5 days prior to the day of that election must be returned by him or her to the person or committee contributing it and may not be used or expended by or on behalf of the candidate.

(b) Except as otherwise provided in <sup>2</sup>paragraph (c), any contribution received by a candidate or by the campaign treasurer or a deputy campaign treasurer of a candidate after the date at which the candidate withdraws his or her candidacy, or after the date the candidate is defeated, becomes unopposed, or is elected to office must be returned to the person or committee contributing it and may not be used or expended by or on behalf of the candidate.

<sup>1</sup>(4) Any contribution received by the chair, campaign treasurer, or deputy campaign treasurer of a political committee supporting or opposing a candidate with opposition in an election or supporting or opposing an issue on the ballot in an election on the day of that election or less than 5 days prior to the day of that election may not be obligated or expended by the committee until after the date of the election.

<sup>1</sup>(5)(a) A person may not make any contribution through or in the name of another, directly or indirectly, in any election.

(b) Candidates, political committees, affiliated party committees, and political parties may not solicit contributions from any religious, charitable, civic, or other causes or organizations established primarily for the public good.

(c) Candidates, political committees, affiliated party committees, and political parties may not make contributions, in exchange for political support, to any religious, charitable, civic, or other cause or organization established primarily for the public good. It is not a violation of this paragraph for:

1. A candidate, political committee, affiliated party committee, or political party executive committee to make gifts of money in lieu of flowers in memory of a deceased person;
2. A candidate to continue membership in, or make regular donations from personal or business funds to, religious, political party, affiliated party committee, civic, or charitable groups of which the candidate is a member or to which the candidate has been a regular donor for more than 6 months; or

3. A candidate to purchase, with campaign funds, tickets, admission to events, or advertisements from religious, civic, political party, affiliated party committee, or charitable groups.

<sup>1</sup>(6)(a) A political party or affiliated party committee may not accept any contribution that has been specifically designated for the partial or exclusive use of a particular candidate. Any contribution so designated must be returned to the contributor and may not be used or expended by or on behalf of the candidate. Funds contributed to an affiliated party committee shall not be deemed as designated for the partial or exclusive use of a leader as defined in s. 103.092.

(b)1. A political party or affiliated party committee may not accept any in-kind contribution that fails to provide a direct benefit to the political party or affiliated party committee. A "direct benefit" includes, but is not limited to, fundraising or furthering the objectives of the political party or affiliated party committee.

2.a. An in-kind contribution to a state political party may be accepted only by the chairperson of the state political party or by the chairperson's designee or designees whose names are on file with the division in a form acceptable to the division prior to the date of the written notice required in sub-subparagraph b. An in-kind contribution to a county political party may be accepted only by the chairperson of the county political party or by the county chairperson's designee or designees whose names are on file with the supervisor of elections of the respective county prior to the date of the written notice required in sub-subparagraph b. An in-kind contribution to an affiliated party committee may be accepted only by the leader of the affiliated party committee as defined in s. 103.092 or by the leader's designee or designees whose names are on file with the division in a form acceptable to the division prior to the date of the written notice required in sub-subparagraph b.

b. A person making an in-kind contribution to a state or county political party or affiliated party committee must provide prior written notice of the contribution to a person described in sub-subparagraph a. The prior written notice must be signed and dated and may be provided by an electronic or facsimile message. However, prior written notice is not required for an in-kind contribution that consists of food and beverage in an aggregate amount not exceeding \$1,500 which is consumed at a single sitting or event if such in-kind contribution is accepted in advance by a person specified in sub-subparagraph a.

c. A person described in sub-subparagraph a. may accept an in-kind contribution requiring prior written notice only in a writing that is dated before the in-kind contribution is made. Failure to obtain the required written acceptance of an in-kind contribution to a state or county political party or affiliated party committee constitutes a refusal of the contribution.

d. A copy of each prior written acceptance required under sub-subparagraph c. must be filed at the time the regular reports of contributions and expenditures required under s. 106.29 are filed by the state executive committee, county executive committee, and affiliated party committee. A state executive committee and an affiliated party committee must file with the division. A county executive committee must file with the county's supervisor of elections.

e. An in-kind contribution may not be given to a state or county political party or affiliated party committee unless the in-kind contribution is made as provided in this subparagraph.

<sup>1</sup>(7)(a) Any person who knowingly and willfully makes or accepts no more than one contribution in violation of subsection (1) or subsection (5), or any person who knowingly and willfully fails or refuses to return any contribution as required in subsection (3), commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. If any corporation, partnership, or other business entity or any political party, affiliated party committee, political committee, committee of continuous

existence, or electioneering communications organization is convicted of knowingly and willfully violating any provision punishable under this paragraph, it shall be fined not less than \$1,000 and not more than \$10,000. If it is a domestic entity, it may be ordered dissolved by a court of competent jurisdiction; if it is a foreign or nonresident business entity, its right to do business in this state may be forfeited. Any officer, partner, agent, attorney, or other representative of a corporation, partnership, or other business entity, or of a political party, affiliated party committee, political committee, committee of continuous existence, electioneering communications organization, or organization exempt from taxation under s. 527 or s. 501(c)(4) of the Internal Revenue Code, who aids, abets, advises, or participates in a violation of any provision punishable under this paragraph commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) Any person who knowingly and willfully makes or accepts two or more contributions in violation of subsection (1) or subsection (5) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. If any corporation, partnership, or other business entity or any political party, affiliated party committee, political committee, committee of continuous existence, or electioneering communications organization is convicted of knowingly and willfully violating any provision punishable under this paragraph, it shall be fined not less than \$10,000 and not more than \$50,000. If it is a domestic entity, it may be ordered dissolved by a court of competent jurisdiction; if it is a foreign or nonresident business entity, its right to do business in this state may be forfeited. Any officer, partner, agent, attorney, or other representative of a corporation, partnership, or other business entity, or of a political committee, committee of continuous existence, political party, affiliated party committee, or electioneering communications organization, or organization exempt from taxation under s. 527 or s. 501(c)(4) of the Internal Revenue Code, who aids, abets, advises, or participates in a violation of any provision punishable under this paragraph commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8) Except when otherwise provided in subsection (7), any person who knowingly and willfully violates any provision of this section shall, in addition to any other penalty prescribed by this chapter, pay to the state a sum equal to twice the amount contributed in violation of this chapter. Each campaign treasurer shall pay all amounts contributed in violation of this section to the state for deposit in the General Revenue Fund.

(9) This section does not apply to the transfer of funds between a primary campaign depository and a savings account or certificate of deposit or to any interest earned on such account or certificate.

(10) Contributions to a political committee or committee of continuous existence may be received by an affiliated organization and transferred to the bank account of the political committee or committee of continuous existence via check written from the affiliated organization if such contributions are specifically identified as intended to be contributed to the political committee or committee of continuous existence. All contributions received in this manner shall be reported pursuant to s. 106.07 by the political committee or committee of continuous existence as having been made by the original contributor.

History.—s. 8, ch. 73-128; s. 6, ch. 74-200; s. 1, ch. 77-174; s. 48, ch. 77-175; s. 1, ch. 78-403; s. 9, ch. 79-365; s. 5, ch. 79-378; s. 7, ch. 85-226; s. 4, ch. 86-134; s. 12, ch. 89-256; ss. 33, 46, ch. 90-315; s. 9, ch. 90-338; s. 11, ch. 91-107; s. 642, ch. 95-147; s. 3, ch. 97-13; s. 8, ch. 99-355; s. 27, ch. 2002-17; s. 3, ch. 2002-197; s. 1, ch. 2002-281; s. 68, ch. 2005-277; s. 46, ch. 2005-278; s. 25, ch. 2005-286; s. 1, ch. 2005-360; s. 9, ch. 2006-300; s. 44, ch. 2007-30; s. 26, ch. 2010-167; ss. 14, 30, ch. 2011-6; s. 62, ch. 2011-40; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the House of Representatives over the Governor’s veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session,

provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective “upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.” C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

<sup>2</sup>Note.—Repealed by s. 62, ch. 2011-40.

**106.087 Independent expenditures; contribution limits; restrictions on political parties, political committees, and committees of continuous existence.—**

(1)(a) As a condition of receiving a rebate of filing fees and party assessment funds pursuant to s. 99.061(2), s. 99.092(1), s. 99.103, or s. 103.121(1)(b), the chair or treasurer of a state or county executive committee shall take and subscribe to an oath or affirmation in writing. During the qualifying period for state candidates and prior to distribution of such funds, a printed copy of the oath or affirmation shall be filed with the Secretary of State and shall be substantially in the following form:

State of Florida

County of

Before me, an officer authorized to administer oaths, personally appeared   (name)  , to me well known, who, being sworn, says that he or she is the   (title)   of the   (name of party)     (state or specified county)   executive committee; that the executive committee has not made, either directly or indirectly, an independent expenditure in support of or opposition to a candidate or elected public official in the prior 6 months; that the executive committee will not make, either directly or indirectly, an independent expenditure in support of or opposition to a candidate or elected public official, through and including the upcoming general election; and that the executive committee will not violate the contribution limits applicable to candidates under s. 106.08(2), Florida Statutes.

  (Signature of committee officer)  

  (Address)  

Sworn to and subscribed before me this   day of  ,   (year)  , at   County, Florida.  

  (Signature and title of officer administering oath)  

(b) Any executive committee found to have violated the provisions of the oath or affirmation in this section prior to receiving funds shall be ineligible to receive the rebate for that general election year.

(c) Any executive committee found to have violated the provisions of the oath or affirmation in this section after receiving funds shall be ineligible to receive the rebate from candidates qualifying for the following general election cycle.

(d) Any funds not distributed to the state or county executive committee pursuant to this section shall be deposited into the General Revenue Fund of the state.

(2)(a) Any political committee or committee of continuous existence that accepts the use of public funds, equipment, personnel, or other resources to collect dues from its members agrees not to make independent expenditures in support of or opposition to a candidate or elected public official. However, expenditures may be made for the sole purpose of jointly endorsing three or more candidates.

(b) Any political committee or committee of continuous existence that violates this subsection is liable for a civil fine of up to \$5,000 to be determined by the Florida Elections Commission or the entire amount of the expenditures, whichever is greater.

History.—s. 5, ch. 97-13; s. 14, ch. 99-6.

**<sup>1</sup>106.088 Independent expenditures; contribution limits; restrictions on affiliated party**



violation of subsection (1) commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

History.—s. 9, ch. 73-128; s. 48, ch. 77-175; s. 2, ch. 2002-281; s. 45, ch. 2007-30; s. 63, ch. 2011-40.

106.11 Expenses of and expenditures by candidates and political committees.—Each candidate and each political committee which designates a primary campaign depository pursuant to s. 106.021(1) shall make expenditures from funds on deposit in such primary campaign depository only in the following manner, with the exception of expenditures made from petty cash funds provided by s. 106.12:

(1)(a) The campaign treasurer or deputy campaign treasurer of a candidate or political committee shall make expenditures from funds on deposit in the primary campaign depository only by means of a bank check drawn upon the campaign account of the candidate or political committee. The campaign account shall be separate from any personal or other account and shall be used only for the purpose of depositing contributions and making expenditures for the candidate or political committee.

(b) The checks for such account shall contain, as a minimum, the following information:

1. The statement “ (name of candidate or political committee) Campaign Account.”
2. The account number and the name of the bank.
3. The exact amount of the expenditure.
4. The signature of the campaign treasurer or deputy treasurer.
5. The exact purpose for which the expenditure is authorized.
6. The name of the payee.

(2)(a) For purposes of this section, debit cards are considered bank checks, if:

1. Debit cards are obtained from the same bank that has been designated as the candidate’s or political committee’s primary campaign depository.
2. Debit cards are issued in the name of the treasurer, deputy treasurer, or authorized user and state “ (name of candidate or political committee) Campaign Account.”
3. No more than three debit cards are requested and issued.
4. The person using the debit card does not receive cash as part of, or independent of, any transaction for goods or services.
5. All receipts for debit card transactions contain:
  - a. The last four digits of the debit card number.
  - b. The exact amount of the expenditure.
  - c. The name of the payee.
  - d. The signature of the campaign treasurer, deputy treasurer, or authorized user.
  - e. The exact purpose for which the expenditure is authorized.

Any information required by this subparagraph but not included on the debit card transaction receipt may be handwritten on, or attached to, the receipt by the authorized user before submission to the treasurer.

(b) Debit cards are not subject to the requirements of paragraph (1)(b).

(3) The campaign treasurer, deputy treasurer, or authorized user who signs the check shall be responsible for the completeness and accuracy of the information on such check and for insuring that such expenditure is an authorized expenditure.

(4) No candidate, campaign manager, treasurer, deputy treasurer, or political committee or any officer or agent thereof, or any person acting on behalf of any of the foregoing, shall authorize any expenses, nor shall any campaign treasurer or deputy treasurer sign a check drawn on the primary

campaign account for any purpose, unless there are sufficient funds on deposit in the primary depository account of the candidate or political committee to pay the full amount of the authorized expense, to honor all other checks drawn on such account, which checks are outstanding, and to meet all expenses previously authorized but not yet paid. However, an expense may be incurred for the purchase of goods or services if there are sufficient funds on deposit in the primary depository account to pay the full amount of the incurred expense, to honor all checks drawn on such account, which checks are outstanding, and to meet all other expenses previously authorized but not yet paid, provided that payment for such goods or services is made upon final delivery and acceptance of the goods or services; and an expenditure from petty cash pursuant to the provisions of s. 106.12 may be authorized, if there is a sufficient amount of money in the petty cash fund to pay for such expenditure. Payment for credit card purchases shall be made pursuant to s. 106.125. Any expense incurred or authorized in excess of such funds on deposit shall, in addition to other penalties provided by law, constitute a violation of this chapter. As used in this subsection, the term “sufficient funds on deposit in the primary depository account of the candidate or political committee” means that the funds at issue have been delivered for deposit to the financial institution at which such account is maintained. The term shall not be construed to mean that such funds are available for withdrawal in accordance with the deposit rules or the funds availability policies of such financial institution.

(5) A candidate who withdraws his or her candidacy, becomes an unopposed candidate, or is eliminated as a candidate or elected to office may expend funds from the campaign account to:

(a) Purchase “thank you” advertising for up to 75 days after he or she withdraws, becomes unopposed, or is eliminated or elected.

(b) Pay for items which were obligated before he or she withdrew, became unopposed, or was eliminated or elected.

(c) Pay for expenditures necessary to close down the campaign office and to prepare final campaign reports.

(d) Dispose of surplus funds as provided in s. 106.141.

(6) A candidate who makes a loan to his or her campaign and reports the loan as required by s. 106.07 may be reimbursed for the loan at any time the campaign account has sufficient funds to repay the loan and satisfy its other obligations.

History.—s. 11, ch. 73-128; s. 8, ch. 74-200; s. 48, ch. 77-175; s. 2, ch. 78-403; s. 10, ch. 79-365; s. 8, ch. 85-226; s. 13, ch. 89-256; s. 14, ch. 91-107; s. 643, ch. 95-147; s. 25, ch. 2002-17; s. 4, ch. 2002-197; s. 64, ch. 2011-40.

#### 106.113 Expenditures by local governments.—

(1) As used in this section, the term:

(a) “Local government” means:

1. A county, municipality, school district, or other political subdivision in this state; and

2. Any department, agency, board, bureau, district, commission, authority, or similar body of a county, municipality, school district, or other political subdivision of this state.

(b) “Public funds” means all moneys under the jurisdiction or control of the local government.

(2) A local government or a person acting on behalf of local government may not expend or authorize the expenditure of, and a person or group may not accept, public funds for a political advertisement or electioneering communication concerning an issue, referendum, or amendment, including any state question, that is subject to a vote of the electors. This subsection does not apply to an electioneering communication from a local government or a person acting on behalf of a local government which is limited to factual information.

(3) With the exception of the prohibitions specified in subsection (2), this section does not preclude an elected official of the local government from expressing an opinion on any issue at any time.

History.—s. 1, ch. 2009-125.

#### 106.12 Petty cash funds allowed.—

(1) Each campaign treasurer designated pursuant to s. 106.021(1) for a candidate or political committee is authorized to withdraw from the primary campaign account, until the close of the last day for qualifying for office, the amount of \$500 per calendar quarter reporting period for the purpose of providing a petty cash fund for the candidate or political committee.

(2) Following the close of the last day for qualifying and until the last election in a given election period in which the political committee participates, the campaign treasurer of each political committee is authorized to withdraw the following amount each week from the primary depository campaign account for the purpose of providing a petty cash fund for the political committee, and, following the close of the last day for qualifying and until the election at which such candidate is eliminated or elected to office, or the time at which the candidate becomes unopposed, the campaign treasurer of each candidate is authorized to withdraw the following amount each week from the primary depository campaign account for the purpose of providing a petty cash fund for the candidate:

- (a) For all candidates for nomination or election on a statewide basis, \$500 per week.
- (b) For all other candidates and all political committees, \$100 per week.

(3) The petty cash fund so provided shall be spent only in amounts less than \$100 and only for office supplies, transportation expenses, and other necessities. Petty cash shall not be used for the purchase of time, space, or services from communications media as defined in s. 106.011(13).

History.—s. 12, ch. 73-128; s. 48, ch. 77-175; s. 9, ch. 85-226; s. 5, ch. 2002-197.

106.125 Credit cards; conditions on use.—Any candidate for statewide office or any political committee created to support or oppose any candidate for statewide office or to support or oppose any statewide issue may obtain, and use in making travel-related campaign expenditures, credit cards. The obtention and use of credit cards by any such candidate or political committee shall be subject to the following conditions:

(1) Credit cards may be obtained only from the same bank which has been designated as the candidate's or political committee's primary campaign depository.

(2) Credit cards shall be in the name of the candidate or political committee and shall reflect that the account is a campaign account.

(3) Before a credit card may be used, a copy of the agreement or contract between the candidate and the bank, or the political committee and the bank, and a list of all persons who have been authorized to use the card shall be filed with the Secretary of State.

(4) All credit cards issued to candidates or political committees shall expire no later than midnight of the last day of the month of the general election.

(5) Each statement rendered by the issuer of a credit card shall be paid upon receipt.

(6) Campaign travel-related expenditures shall include transportation, lodging, meals, and other expenses incurred in connection with traveling for campaign purposes.

This section shall not be deemed to preclude the use of advance payments by a check drawn on the primary depository account for travel-related expenses. The treasurer shall require an accounting of actual expenses and reconcile any overpayment or underpayment to the original payee.

History.—s. 11, ch. 79-365; s. 2, ch. 86-134.

**106.14 Utilities; deposits; prior authorization.—**

(1) Utility companies providing utilities services to a candidate or political committee shall charge a deposit sufficient to meet all anticipated charges during a billing period.

(2) Authorization and payment for utilities used during the billing period must be made by the candidate or political committee when the bill is received from a utility company.

History.—s. 14, ch. 73-128; s. 48, ch. 77-175; s. 5, ch. 78-403; s. 59, ch. 79-400; s. 2, ch. 85-63; s. 14, ch. 89-256.

**106.1405 Use of campaign funds.—**A candidate or the spouse of a candidate may not use funds on deposit in a campaign account of such candidate to defray normal living expenses for the candidate or the candidate's family, other than expenses actually incurred for transportation, meals, and lodging by the candidate or a family member during travel in the course of the campaign.

History.—s. 49, ch. 77-175; s. 53, ch. 81-259; s. 644, ch. 95-147; s. 10, ch. 97-13.

**106.141 Disposition of surplus funds by candidates.—**

(1) Each candidate who withdraws his or her candidacy, becomes an unopposed candidate, or is eliminated as a candidate or elected to office shall, within 90 days, dispose of the funds on deposit in his or her campaign account and file a report reflecting the disposition of all remaining funds. Such candidate shall not accept any contributions, nor shall any person accept contributions on behalf of such candidate, after the candidate withdraws his or her candidacy, becomes unopposed, or is eliminated or elected. However, if a candidate receives a refund check after all surplus funds have been disposed of, the check may be endorsed by the candidate and the refund disposed of under this section. An amended report must be filed showing the refund and subsequent disposition.

(2) Any candidate required to dispose of funds pursuant to this section may, prior to such disposition, be reimbursed by the campaign, in full or in part, for any reported contributions by the candidate to the campaign.

(3) The campaign treasurer of a candidate who withdraws his or her candidacy, becomes unopposed, or is eliminated as a candidate or elected to office and who has funds on deposit in a separate interest-bearing account or certificate of deposit shall, within 7 days after the date of becoming unopposed or the date of such withdrawal, elimination, or election, transfer such funds and the accumulated interest earned thereon to the campaign account of the candidate for disposal under this section. However, if the funds are in an account in which penalties will apply for withdrawal within the 7-day period, the campaign treasurer shall transfer such funds and the accumulated interest earned thereon as soon as the funds can be withdrawn without penalty, or within 90 days after the candidate becomes unopposed, withdraws his or her candidacy, or is eliminated or elected, whichever comes first.

(4)<sup>1</sup>(a) Except as provided in paragraph (b), any candidate required to dispose of funds pursuant to this section shall, at the option of the candidate, dispose of such funds by any of the following means, or any combination thereof:

1. Return pro rata to each contributor the funds that have not been spent or obligated.
2. Donate the funds that have not been spent or obligated to a charitable organization or organizations that meet the qualifications of s. 501(c)(3) of the Internal Revenue Code.
- <sup>2</sup>3. Give the funds that have not been spent or obligated to the affiliated party committee or political party of which such candidate is a member.
4. Give the funds that have not been spent or obligated:

a. In the case of a candidate for state office, to the state, to be deposited in either the <sup>3</sup>Election Campaign Financing Trust Fund or the General Revenue Fund, as designated by the candidate; or

b. In the case of a candidate for an office of a political subdivision, to such political subdivision, to be deposited in the general fund thereof.

(b) Any candidate required to dispose of funds pursuant to this section who has received contributions pursuant to the Florida Election Campaign Financing Act shall, after all monetary commitments pursuant to s. 106.11(5)(b) and (c) have been met, return all surplus campaign funds to the General Revenue Fund.

(5) A candidate elected to office or a candidate who will be elected to office by virtue of his or her being unopposed may, in addition to the disposition methods provided in subsection (4), transfer from the campaign account to an office account any amount of the funds on deposit in such campaign account up to:

(a) Twenty thousand dollars, for a candidate for statewide office. The Governor and Lieutenant Governor shall be considered separate candidates for the purpose of this section.

(b) Five thousand dollars, for a candidate for multicounty office.

(c) Five thousand dollars multiplied by the number of years in the term of office for which elected, for a candidate for legislative office.

(d) Two thousand five hundred dollars multiplied by the number of years in the term of office for which elected, for a candidate for county office or for a candidate in any election conducted on less than a countywide basis.

(e) Six thousand dollars, for a candidate for retention as a justice of the Supreme Court.

(f) Three thousand dollars, for a candidate for retention as a judge of a district court of appeal.

(g) One thousand five hundred dollars, for a candidate for county court judge or circuit judge.

The office account established pursuant to this subsection shall be separate from any personal or other account. Any funds so transferred by a candidate shall be used only for legitimate expenses in connection with the candidate's public office. Such expenses may include travel expenses incurred by the officer or a staff member, personal taxes payable on office account funds by the candidate or elected public official, or expenses incurred in the operation of his or her office, including the employment of additional staff. The funds may be deposited in a savings account; however, all deposits, withdrawals, and interest earned thereon shall be reported at the appropriate reporting period. If a candidate is reelected to office or elected to another office and has funds remaining in his or her office account, he or she may transfer surplus campaign funds to the office account. At no time may the funds in the office account exceed the limitation imposed by this subsection. Upon leaving public office, any person who has funds in an office account pursuant to this subsection remaining on deposit shall give such funds to a charitable organization or organizations which meet the requirements of s. 501(c)(3) of the Internal Revenue Code or, in the case of a state officer, to the state to be deposited in the General Revenue Fund or, in the case of an officer of a political subdivision, to the political subdivision to be deposited in the general fund thereof.

(6) Prior to disposing of funds pursuant to subsection (4) or transferring funds into an office account pursuant to subsection (5), any candidate who filed an oath stating that he or she was unable to pay the election assessment or fee for verification of petition signatures without imposing an undue burden on his or her personal resources or on resources otherwise available to him or her, or who filed both such oaths, or who qualified by the petition process and was not required to pay an election assessment, shall

reimburse the state or local governmental entity, whichever is applicable, for such waived assessment or fee or both. Such reimbursement shall be made first for the cost of petition verification and then, if funds are remaining, for the amount of the election assessment. If there are insufficient funds in the account to pay the full amount of either the assessment or the fee or both, the remaining funds shall be disbursed in the above manner until no funds remain. All funds disbursed pursuant to this subsection shall be remitted to the qualifying officer. Any reimbursement for petition verification costs which are reimbursable by the state shall be forwarded by the qualifying officer to the state for deposit in the General Revenue Fund. All reimbursements for the amount of the election assessment shall be forwarded by the qualifying officer to the Department of State for deposit in the General Revenue Fund.

(7)(a) Any candidate required to dispose of campaign funds pursuant to this section shall do so within the time required by this section and shall, on or before the date by which such disposition is to have been made, file with the officer with whom reports are required to be filed pursuant to s. 106.07 a form prescribed by the Division of Elections listing:

1. The name and address of each person or unit of government to whom any of the funds were distributed and the amounts thereof;
2. The name and address of each person to whom an expenditure was made, together with the amount thereof and purpose therefor; and
3. The amount of such funds transferred to an office account by the candidate, together with the name and address of the bank in which the office account is located.

Such report shall be signed by the candidate and the campaign treasurer and certified as true and correct pursuant to s. 106.07.

(b) The filing officer shall notify each candidate at least 14 days before the date the report is due.

(c) Any candidate failing to file a report on the designated due date shall be subject to a fine as provided in s. 106.07 for submitting late termination reports.

(8) Any candidate elected to office who transfers surplus campaign funds into an office account pursuant to subsection (5) shall file a report on the 10th day following the end of each calendar quarter until the account is closed. Such reports shall contain the name and address of each person to whom any disbursement of funds was made, together with the amount thereof and the purpose therefor, and the name and address of any person from whom the elected candidate received any refund or reimbursement and the amount thereof. Such reports shall be on forms prescribed by the Division of Elections, signed by the elected candidate, certified as true and correct, and filed with the officer with whom campaign reports were filed pursuant to s. 106.07(2).

(9) Any candidate, or any person on behalf of a candidate, who accepts contributions after such candidate has withdrawn his or her candidacy, after the candidate has become an unopposed candidate, or after the candidate has been eliminated as a candidate or elected to office commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(10) Any candidate who is required by the provisions of this section to dispose of funds in his or her campaign account and who fails to dispose of the funds in the manner provided in this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 50, ch. 77-175; s. 6, ch. 79-378; s. 60, ch. 79-400; s. 2, ch. 80-292; s. 54, ch. 81-259; s. 28, ch. 81-304; s. 1, ch. 82-404; s. 38, ch. 84-302; s. 10, ch. 85-226; s. 2, ch. 86-7; s. 2, ch. 86-276; s. 11, ch. 87-363; s. 15, ch. 89-256; s. 34, ch. 90-315; s. 15, ch. 91-107; s. 645, ch. 95-147; ss. 15, 16, 53, ch. 97-13; s. 6, ch. 2002-197; s. 20, ch. 2004-252; s. 70, ch. 2005-277; ss. 16, 30, ch. 2011-6; s. 65, ch. 2011-40; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the

House of Representatives over the Governor's veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective "upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible." C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

<sup>2</sup>Note.—As amended by s. 16, ch. 2011-6, and s. 65, ch. 2011-40. Section 16, ch. 2011-6, added references to affiliated party committees as an alternative recipient to political parties at s. 106.141(4)(a)3. relating to disposal of unspent or unobligated funds; s. 65, ch. 2011-40, deleted language specifying dollar amount limitations as to disposal of funds.

<sup>3</sup>Note.—The trust fund expired, effective November 4, 1996, by operation of s. 19(f), Art. III of the State Constitution.

#### 106.143 Political advertisements circulated prior to election; requirements.—

(1)(a) Any political advertisement that is paid for by a candidate, except a write-in candidate, and that is published, displayed, or circulated before, or on the day of, any election must prominently state:

1. "Political advertisement paid for and approved by (name of candidate), (party affiliation), for (office sought)"; OR

2. "Paid by (name of candidate), (party affiliation), for (office sought)."

(b) Any political advertisement that is paid for by a write-in candidate and that is published, displayed, or circulated before, or on the day of, any election must prominently state:

1. "Political advertisement paid for and approved by (name of candidate), write-in candidate, for (office sought)"; OR

2. "Paid by (name of candidate), write-in candidate, for (office sought)."

(c) Any other political advertisement published, displayed, or circulated before, or on the day of, any election must prominently:

1. Be marked "paid political advertisement" or with the abbreviation "pd. pol. adv."

2. State the name and address of the persons paying for the advertisement.

3. State whether the advertisement and the cost of production is paid for or provided in kind by or at the expense of the entity publishing, displaying, broadcasting, or circulating the political advertisement.

(d) Any political advertisement made pursuant to s. 106.021(3)(d) must prominently state the name and address of the political committee or political party paying for the advertisement.

(2) Political advertisements made as in-kind contributions from a political party must prominently state: "Paid political advertisement paid <sup>1</sup>for in-kind by (name of political party). Approved by (name of person, party affiliation, and office sought in the political advertisement)."

(3) Any political advertisement of a candidate running for partisan office shall express the name of the political party of which the candidate is seeking nomination or is the nominee. If the candidate for partisan office is running as a candidate with no party affiliation, any political advertisement of the candidate must state that the candidate has no party affiliation. A political advertisement of a candidate running for nonpartisan office may not state the candidate's political party affiliation. This section does not prohibit a political advertisement from stating the candidate's partisan-related experience. A candidate for nonpartisan office is prohibited from campaigning based on party affiliation.

(4) It is unlawful for any candidate or person on behalf of a candidate to represent that any person or organization supports such candidate, unless the person or organization so represented has given specific approval in writing to the candidate to make such representation. However, this subsection does not apply to:

(a) Editorial endorsement by any newspaper, radio or television station, or other recognized news medium.

(b) Publication by a party committee advocating the candidacy of its nominees.

(5)<sup>2</sup>(a) Any political advertisement not paid for by a candidate, including those paid for by a political party or affiliated party committee, other than an independent expenditure, offered on behalf of a candidate must be approved in advance by the candidate. Such political advertisement must expressly state that the content of the advertisement was approved by the candidate, unless the political advertisement is published, displayed, or circulated in compliance with subparagraph (1)(a)2., and must state who paid for the advertisement. The candidate shall provide a written statement of authorization to the newspaper, radio station, television station, or other medium for each such advertisement submitted for publication, display, broadcast, or other distribution.

(b) Any person who makes an independent expenditure for a political advertisement shall provide a written statement that no candidate has approved the advertisement to the newspaper, radio station, television station, or other medium for each such advertisement submitted for publication, display, broadcast, or other distribution. The advertisement must also contain a statement that no candidate has approved the advertisement.

(6) No political advertisement of a candidate who is not an incumbent of the office for which the candidate is running shall use the word "re-elect." Additionally, such advertisement must include the word "for" between the candidate's name and the office for which the candidate is running, in order that incumbency is not implied. This subsection does not apply to bumper stickers or items designed to be worn by a person.

(7) Political advertisements paid for by a political party or an affiliated party committee may use names and abbreviations as registered under s. 103.081 in the disclaimer.

(8) This section does not apply to novelty items having a retail value of \$10 or less which support, but do not oppose, a candidate or issue.

(9) Any political advertisement which is published, displayed, or produced in a language other than English may provide the information required by this section in the language used in the advertisement.

(10) This section does not apply to any campaign message or political advertisement used by a candidate and the candidate's supporters or by a political committee if the message or advertisement is:

(a) Designed to be worn by a person.

(b) Placed as a paid link on an Internet website, provided the message or advertisement is no more than 200 characters in length and the link directs the user to another Internet website that complies with subsection (1).

(c) Placed as a graphic or picture link where compliance with the requirements of this section is not reasonably practical due to the size of the graphic or picture link and the link directs the user to another Internet website that complies with subsection (1).

(d) Placed at no cost on an Internet website for which there is no cost to post content for public users.

(e) Placed or distributed on an unpaid profile or account which is available to the public without charge or on a social networking Internet website, as long as the source of the message or advertisement is patently clear from the content or format of the message or advertisement. A candidate or political committee may prominently display a statement indicating that the website or account is an official website or account of the candidate or political committee and is approved by the

candidate or political committee. A website or account may not be marked as official without prior approval by the candidate or political committee.

(f) Distributed as a text message or other message via Short Message Service, provided the message is no more than 200 characters in length or requires the recipient to sign up or opt in to receive it.

(g) Connected with or included in any software application or accompanying function, provided that the user signs up, opts in, downloads, or otherwise accesses the application from or through a website that complies with subsection (1).

(h) Sent by a third-party user from or through a campaign or committee's website, provided the website complies with subsection (1).

(i) Contained in or distributed through any other technology-related item, service, or device for which compliance with subsection (1) is not reasonably practical due to the size or nature of such item, service, or device as available, or the means of displaying the message or advertisement makes compliance with subsection (1) impracticable.

(11) Any person who willfully violates any provision of this section is subject to the civil penalties prescribed in s. 106.265.

History.—s. 8, ch. 26870, 1951; s. 1, ch. 61-145; s. 21, ch. 65-379; s. 57, ch. 71-136; s. 30, ch. 73-128; s. 52, ch. 77-175; s. 30, ch. 81-304; s. 16, ch. 89-256; s. 35, ch. 90-315; s. 16, ch. 91-107; s. 646, ch. 95-147; s. 17, ch. 97-13; s. 18, ch. 99-318; s. 5, ch. 2004-252; s. 46, ch. 2007-30; s. 18, ch. 2010-167; ss. 17, 30, ch. 2011-6; s. 66, ch. 2011-40; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—The word “by” following the word “for” was deleted by the editors.

<sup>2</sup>Note.—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the House of Representatives over the Governor's veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective “upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.” C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

Note.—Former s. 104.37.

#### 106.1435 Usage and removal of political campaign advertisements.—

(1) Each candidate, whether for a federal, state, county, or district office, shall make a good faith effort to remove all of his or her political campaign advertisements within 30 days after:

- (a) Withdrawal of his or her candidacy;
- (b) Having been eliminated as a candidate; or
- (c) Being elected to office.

However, a candidate is not expected to remove those political campaign advertisements which are in the form of signs used by an outdoor advertising business as provided in chapter 479. The provisions herein do not apply to political campaign advertisements placed on motor vehicles or to campaign messages designed to be worn by persons.

(2) If political campaign advertisements are not removed within the specified period, the political subdivision or governmental entity has the authority to remove such advertisements and may charge the candidate the actual cost for such removal. Funds collected for removing such advertisements shall be deposited to the general revenue of the political subdivision.

(3) Pursuant to chapter 479, no political campaign advertisements shall be erected, posted, painted, tacked, nailed, or otherwise displayed, placed, or located on or above any state or county road right-of-way.

(4) The officer before whom a candidate qualifies for office shall notify the candidate, in writing, of the provisions in this section.

(5) This provision does not preclude municipalities from imposing additional or more stringent requirements on the usage and removal of political campaign advertisements.

History.—s. 1, ch. 84-221; s. 20, ch. 84-302; s. 14, ch. 87-224; s. 647, ch. 95-147.

**106.1437** Miscellaneous advertisements.—Any advertisement, other than a political advertisement, independent expenditure, or electioneering communication, on billboards, bumper stickers, radio, or television, or in a newspaper, a magazine, or a periodical, intended to influence public policy or the vote of a public official, shall clearly designate the sponsor of such advertisement by including a clearly readable statement of sponsorship. If the advertisement is broadcast on television, the advertisement shall also contain a verbal statement of sponsorship. This section does not apply to an editorial endorsement. For purposes of this chapter, an expenditure made for, or in furtherance of, a miscellaneous advertisement is not considered to be a contribution to or on behalf of a candidate, and does not constitute an independent expenditure. Such expenditures are not subject to the limitations applicable to independent expenditures.

History.—s. 36, ch. 90-315; s. 6, ch. 2004-252; s. 27, ch. 2010-167; ss. 18, 30, ch. 2011-6; s. 67, ch. 2011-40; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the House of Representatives over the Governor’s veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective “upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.” C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

**106.1439** Electioneering communications; disclaimers.—

(1) Any electioneering communication, other than a telephone call, shall prominently state: “Paid electioneering communication paid for by (Name and address of person paying for the communication).”

(2) Any electioneering communication telephone call shall identify the persons or organizations sponsoring the call by stating either: “Paid for by (insert name of persons or organizations sponsoring the call).” or “Paid for on behalf of (insert name of persons or organizations authorizing call).” This subsection does not apply to any telephone call in which the individual making the call is not being paid and the individuals participating in the call know each other prior to the call.

(3) Any person who fails to include the disclaimer prescribed in this section in any electioneering communication that is required to contain such disclaimer commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 7, ch. 2004-252; s. 28, ch. 2010-167; ss. 19, 30, ch. 2011-6; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the House of Representatives over the Governor’s veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective “upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.” C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

**106.147** Telephone solicitation; disclosure requirements; prohibitions; exemptions; penalties.—

(1)<sup>1</sup>(a) Any telephone call supporting or opposing a candidate, elected public official, or ballot

proposal must identify the persons or organizations sponsoring the call by stating either: “paid for by ” (insert name of persons or organizations sponsoring the call) or “paid for on behalf of ” (insert name of persons or organizations authorizing call). This paragraph does not apply to any telephone call in which both the individual making the call is not being paid and the individuals participating in the call know each other prior to the call.

(b) Any telephone call conducted for the purpose of polling respondents concerning a candidate or elected public official which is a part of a series of like telephone calls that consists of fewer than 1,000 completed calls and averages more than 2 minutes in duration is presumed to be a political poll and not subject to the provisions of paragraph (a).

(c) No telephone call shall state or imply that the caller represents any person or organization unless the person or organization so represented has given specific approval in writing to make such representation.

(d) No telephone call shall state or imply that the caller represents a nonexistent person or organization.

(2) Any telephone call, not conducted by independent expenditure, which expressly advocates for or against a candidate or ballot proposal requires prior written authorization by the candidate or sponsor of the ballot proposal that the call supports. A copy of such written authorization must be placed on file with the qualifying officer by the candidate or sponsor of the ballot proposal prior to the time the calls commence.

<sup>1</sup>(3)(a) Any person who willfully violates any provision of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) For purposes of paragraph (a), the term “person” includes any candidate; any officer of any political committee, committee of continuous existence, affiliated party committee, or political party executive committee; any officer, partner, attorney, or other representative of a corporation, partnership, or other business entity; and any agent or other person acting on behalf of any candidate, political committee, committee of continuous existence, affiliated party committee, political party executive committee, or corporation, partnership, or other business entity.

History.—s. 18, ch. 97-13; s. 31, ch. 2008-95; s. 29, ch. 2010-167; ss. 20, 30, ch. 2011-6; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the House of Representatives over the Governor’s veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective “upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.” C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

#### 106.1475 Telephone solicitation; registered agent requirements; penalty.—

(1) Any person or organization that conducts any business in this state which consists of making paid telephone calls supporting or opposing any candidate or elected public official must, prior to conducting such business, have and continuously maintain, for at least 180 days following the cessation of such business activities in the state, a registered agent for the purpose of any service of process, notice, or demand required or authorized by law and must file with the division a notice of such registered agent. Such registered agent must be an individual who is a resident of this state, a domestic corporation, or a foreign corporation authorized to do business in this state. However, this subsection does not apply to any person or organization already lawfully registered to conduct business in this state.

(2) For purposes of this section, conducting business in this state as specified in subsection (1)

includes both placing telephone calls from a location in this state and placing telephone calls from a location outside this state to individuals located in this state.

(3)(a) The division shall create and maintain forms for the notice required by subsection (1), which, at a minimum, must elicit all of the following information:

1. The name, address, and telephone number of the registered agent.
2. The name, address, and telephone number of the person or organization conducting business in this state as specified in subsection (1).

(b) The person or organization conducting business in this state as specified in subsection (1) must immediately notify the division of any changes in the information required in paragraph (a).

(4) Any person or organization that violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 19, ch. 97-13.

#### 106.15 Certain acts prohibited.—

(1) No person shall pay money or give anything of value for the privilege of speaking at a political meeting in the furtherance of his or her candidacy, nor shall anyone speaking for such a person pay money or give anything of value for such privilege.

(2) No candidate, in the furtherance of his or her candidacy for nomination or election to public office in any election, shall use any state-owned aircraft or motor vehicle, as provided in chapter 287, solely for the purpose of furthering his or her candidacy. However, in the event a candidate uses any state-owned aircraft or motor vehicle to conduct official state business and while on such trip performs any function in the furtherance of his or her candidacy for nomination or election to public office in any election, the candidate shall prorate the expenses incurred and reimburse the appropriate agency for any trip not exclusively for state business and shall pay either a prorated share of all fixed and variable expenses related to the ownership, operation, and use of such aircraft or one-half of the total fixed and variable expenses related to the ownership, operation, and use of such aircraft, whichever is greater. The reimbursement shall be made from the campaign account of the candidate.

(3) A candidate may not, in the furtherance of his or her candidacy for nomination or election to public office in any election, use the services of any state, county, municipal, or district officer or employee during working hours.

(4) No person shall make and no person shall solicit or knowingly accept any political contribution in a building owned by a governmental entity. For purposes of this subsection, “accept” means to receive a contribution by personal hand delivery from a contributor or the contributor’s agent. This subsection shall not apply when a government-owned building or any portion thereof is rented for the specific purpose of holding a campaign fund raiser.

(5) Any person violating the provisions of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 15, ch. 73-128; s. 9, ch. 74-200; s. 1, ch. 77-174; s. 54, ch. 77-175; s. 61, ch. 79-400; s. 31, ch. 81-304; s. 28, ch. 83-217; s. 2, ch. 83-304; s. 16, ch. 91-45; s. 17, ch. 91-107; s. 648, ch. 95-147; s. 2, ch. 97-223; s. 7, ch. 2002-197.

106.16 Limitation on certain rates and charges.—No person or corporation within the state publishing a newspaper or other periodical or operating a radio or television station or network of stations in Florida shall charge one candidate for state or county public office for political advertising in a county, or for political broadcasts in a county, at a rate in excess of that charged another political candidate.

History.—s. 16, ch. 73-128; s. 55, ch. 77-175; s. 18, ch. 89-256.

**106.161 Air time available at the lowest unit rate.**—To the extent permitted by federal law, all broadcast radio and television stations and all cable television stations shall make air time available to candidates for public office at the lowest unit rate.

History.—s. 35, ch. 91-107.

**<sup>1</sup>106.165 Use of closed captioning and descriptive narrative in all television broadcasts.**—Each candidate, political party, affiliated party committee, and political committee must use closed captioning and descriptive narrative in all television broadcasts regulated by the Federal Communications Commission that are on behalf of, or sponsored by, a candidate, political party, affiliated party committee, or political committee or must file a written statement with the qualifying officer setting forth the reasons for not doing so. Failure to file this statement with the appropriate qualifying officer constitutes a violation of the Florida Election Code and is under the jurisdiction of the Florida Elections Commission. The Department of State may adopt rules in accordance with s. 120.54 which are necessary to administer this section.

History.—s. 7, ch. 2002-281; s. 71, ch. 2005-277; ss. 21, 30, ch. 2011-6; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the House of Representatives over the Governor’s veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective “upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.” C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

Note.—Former s. 98.122.

**<sup>1</sup>106.17 Polls and surveys relating to candidacies.**—Any candidate, political committee, committee of continuous existence, electioneering communication organization, affiliated party committee, or state or county executive committee of a political party may authorize or conduct a political poll, survey, index, or measurement of any kind relating to candidacy for public office so long as the candidate, political committee, committee of continuous existence, electioneering communication organization, affiliated party committee, or political party maintains complete jurisdiction over the poll in all its aspects. State and county executive committees of a political party or an affiliated party committee may authorize and conduct political polls for the purpose of determining the viability of potential candidates. Such poll results may be shared with potential candidates, and expenditures incurred by state and county executive committees or an affiliated party committee for potential candidate polls are not contributions to the potential candidates.

History.—s. 17, ch. 73-128; s. 1, ch. 77-174; s. 56, ch. 77-175; s. 32, ch. 81-304; s. 47, ch. 2007-30; s. 30, ch. 2010-167; ss. 22, 30, ch. 2011-6; s. 68, ch. 2011-40; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the House of Representatives over the Governor’s veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective “upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.” C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

**106.18 When a candidate’s name to be omitted from ballot.**—

(1) The name of a candidate shall not be printed on the ballot for an election if the candidate is convicted of violating s. 106.19.

(2) Any candidate whose name is removed from the ballot pursuant to subsection (1) is disqualified as a candidate for office. If the disqualification of such candidate results in a vacancy in nomination, such vacancy shall be filled by a person other than such candidate in the manner provided by law.

(3) No certificate of election shall be granted to any candidate until all preelection reports required by s. 106.07 have been filed in accordance with the provisions of such section. However, no candidate shall be prevented from receiving a certificate of election for failure to file any copy of a report required by this chapter.

History.—s. 18, ch. 73-128; s. 57, ch. 77-175; s. 11, ch. 85-226; s. 37, ch. 90-315; s. 3, ch. 90-338.

#### 106.19 Violations by candidates, persons connected with campaigns, and political committees.—

(1) Any candidate; campaign manager, campaign treasurer, or deputy treasurer of any candidate; committee chair, vice chair, campaign treasurer, deputy treasurer, or other officer of any political committee; agent or person acting on behalf of any candidate or political committee; or other person who knowingly and willfully:

- (a) Accepts a contribution in excess of the limits prescribed by s. 106.08;
- (b) Fails to report any contribution required to be reported by this chapter;
- (c) Falsely reports or deliberately fails to include any information required by this chapter; or
- (d) Makes or authorizes any expenditure in violation of s. 106.11(4) or any other expenditure prohibited by this chapter;

is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) Any candidate, campaign treasurer, or deputy treasurer; any chair, vice chair, or other officer of any political committee; any agent or person acting on behalf of any candidate or political committee; or any other person who violates paragraph (1)(a), paragraph (1)(b), or paragraph (1)(d) shall be subject to a civil penalty equal to three times the amount involved in the illegal act. Such penalty may be in addition to the penalties provided by subsection (1) and shall be paid into the General Revenue Fund of this state.

(3) A political committee sponsoring a constitutional amendment proposed by initiative which submits a petition form gathered by a paid petition circulator which does not provide the name and address of the paid petition circulator on the form is subject to the civil penalties prescribed in s. 106.265.

(4) Except as otherwise expressly stated, the failure by a candidate to comply with the requirements of this chapter has no effect upon whether the candidate has qualified for the office the candidate is seeking.

History.—s. 19, ch. 73-128; s. 57, ch. 77-175; s. 62, ch. 79-400; s. 12, ch. 91-107; s. 649, ch. 95-147; ss. 24, 45, ch. 97-13; s. 8, ch. 2002-197; s. 11, ch. 2006-300; s. 69, ch. 2011-40.

106.191 Signatures gathered for initiative petition; effect of ch. 97-13.—Any signature gathered on an authorized form for an initiative petition by a paid petition circulator which has been submitted prior to the effective date of this act may be kept and counted, if otherwise valid, and that form is not required to have the name and address of the paid petition circulator, nor is any such signature affected by the prohibition against filing an undue burden oath in lieu of paying the fee to have signatures verified, as provided by this act. However, any signature gathered on or after the effective date of this act is subject to the provisions of this act and, if payment is made to any person to

solicit signatures after the effective date of this act, an undue burden oath may not be filed in lieu of paying the fee to have signatures verified. In addition, any initiative petition form approved by the Secretary of State prior to the effective date of this act may continue to be circulated.

History.—s. 25, ch. 97-13.

**106.21 Certificates of election not to be issued upon conviction.—**

(1) If a successful candidate is convicted of violating s. 106.19(1) prior to the issuance of his or her certificate of election, such certificate shall not be issued, and a vacancy shall be declared and filled as provided by law.

(2) If a successful candidate is convicted of violating s. 106.19(1) subsequent to the issuance of a certificate of election but prior to taking office, such certificate shall be rescinded by the issuing body and declared void, and a vacancy in office shall exist and be filled as provided by law.

History.—s. 21, ch. 73-128; s. 57, ch. 77-175; s. 650, ch. 95-147.

**106.22 Duties of the Division of Elections.—It is the duty of the Division of Elections to:**

(1) Prescribe forms for statements and other information required to be filed by this chapter. Such forms shall be furnished by the Department of State or office of the supervisor of elections to persons required to file such statements and information with such agency.

(2) Prepare and publish manuals or brochures setting forth recommended uniform methods of bookkeeping and reporting, and including appropriate portions of the election code, for use by persons required by this chapter to file statements.

(3) Develop a filing, coding, and cross-indexing system consonant with the purposes of this chapter.

(4) Preserve statements and other information required to be filed with the division pursuant to this chapter for a period of 10 years from date of receipt.

(5) Prepare and publish such reports as it may deem appropriate.

(6) Make, from time to time, audits and field investigations with respect to reports and statements filed under the provisions of this chapter and with respect to alleged failures to file any report or statement required under the provisions of this chapter. The division shall conduct a postelection audit of the campaign accounts of all candidates receiving contributions from the <sup>1</sup>Election Campaign Financing Trust Fund.

(7) Report to the Florida Elections Commission any failure to file a report or information required by this chapter or any apparent violation of this chapter.

(8) Employ such personnel or contract for such services as are necessary to adequately carry out the intent of this chapter.

(9) Prescribe rules and regulations to carry out the provisions of this chapter. Such rules shall be prescribed pursuant to chapter 120.

(10) Conduct random audits with respect to reports and statements filed under this chapter and with respect to alleged failure to file any reports and statements required under this chapter.

History.—s. 22, ch. 73-128; s. 57, ch. 77-175; s. 13, ch. 79-365; s. 4, ch. 84-254; s. 3, ch. 86-276; s. 9, ch. 90-338; s. 46, ch. 97-13; s. 7, ch. 2001-75; s. 72, ch. 2005-277.

<sup>1</sup>Note.—The trust fund expired, effective November 4, 1996, by operation of s. 19(f), Art. III of the State Constitution.

**106.23 Powers of the Division of Elections.—**

(1) In order to carry out the responsibilities prescribed by s. 106.22, the Division of Elections is empowered to subpoena and bring before its duly authorized representatives any person in the state, or any person doing business in the state, or any person who has filed or is required to have filed any

application, document, papers, or other information with an office or agency of this state or a political subdivision thereof and to require the production of any papers, books, or other records relevant to any investigation, including the records and accounts of any bank or trust company doing business in this state. Duly authorized representatives of the division are empowered to administer all oaths and affirmations in the manner prescribed by law to witnesses who shall appear before them concerning any relevant matter. Should any witness fail to respond to the lawful subpoena of the division or, having responded, fail to answer all lawful inquiries or to turn over evidence that has been subpoenaed, the division may file a complaint before any circuit court of the state setting up such failure on the part of the witness. On the filing of such complaint, the court shall take jurisdiction of the witness and the subject matter of said complaint and shall direct the witness to respond to all lawful questions and to produce all documentary evidence in the witness's possession which is lawfully demanded. The failure of any witness to comply with such order of the court shall constitute a direct and criminal contempt of court, and the court shall punish said witness accordingly. However, the refusal by a witness to answer inquiries or turn over evidence on the basis that such testimony or material will tend to incriminate such witness shall not be deemed refusal to comply with the provisions of this chapter.

<sup>1</sup>(2) The Division of Elections shall provide advisory opinions when requested by any supervisor of elections, candidate, local officer having election-related duties, political party, affiliated party committee, political committee, committee of continuous existence, or other person or organization engaged in political activity, relating to any provisions or possible violations of Florida election laws with respect to actions such supervisor, candidate, local officer having election-related duties, political party, affiliated party committee, committee, person, or organization has taken or proposes to take. Requests for advisory opinions must be submitted in accordance with rules adopted by the Department of State. A written record of all such opinions issued by the division, sequentially numbered, dated, and indexed by subject matter, shall be retained. A copy shall be sent to said person or organization upon request. Any such person or organization, acting in good faith upon such an advisory opinion, shall not be subject to any criminal penalty provided for in this chapter. The opinion, until amended or revoked, shall be binding on any person or organization who sought the opinion or with reference to whom the opinion was sought, unless material facts were omitted or misstated in the request for the advisory opinion.

History.—s. 23, ch. 73-128; s. 3, ch. 76-233; s. 58, ch. 77-175; s. 651, ch. 95-147; s. 47, ch. 97-13; s. 8, ch. 2001-75; ss. 23, 30, ch. 2011-6; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the House of Representatives over the Governor’s veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective “upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.” C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

#### 106.24 Florida Elections Commission; membership; powers; duties.—

(1)(a) There is created within the Department of Legal Affairs, Office of the Attorney General, a Florida Elections Commission, hereinafter referred to as the commission. The commission shall be a separate budget entity and the agency head for all purposes. The commission shall not be subject to control, supervision, or direction by the Department of Legal Affairs or the Attorney General in the performance of its duties, including, but not limited to, personnel, purchasing transactions involving

real or personal property, and budgetary matters.

(b) The commission shall be composed of nine members. The President of the Senate, the Speaker of the House of Representatives, the minority leader of the Senate, and the minority leader of the House of Representatives shall each provide a list of six nominees to the Governor for initial appointment to the commission. The Governor may appoint two members to the commission from each list. If the Governor refuses to appoint two members from any of the respective lists, the Governor shall so inform the nominating officer and the nominating officer shall submit a new list of six nominees within 30 days. The new list must contain at least three nominees not included on the prior nominating list. The ninth commission member, who shall serve as chair of the commission, shall be appointed by the Governor. Each member of the commission is subject to confirmation by the Senate. The chair of the commission shall serve for a maximum term of 4 years, such term to run concurrently with the term of the appointing Governor and until a future successor is appointed. Other members of the commission shall serve for 4-year terms and until their successors are appointed. An individual who is a lobbyist at the state or local government level may not serve as a member of the commission, except that this prohibition shall not apply to an individual who is a member of the commission on July 1, 2002, until the expiration of his or her current term. A member of the commission is prohibited from lobbying state or local government while he or she is a member of the commission, except that this prohibition shall not apply to an individual who is a member of the commission on July 1, 2002, until the expiration of his or her current term.

(c) As the terms of members expire, excluding the chair, successors shall be appointed to 4-year terms and shall serve until their successors are appointed. Six months prior to the expiration of a commission member's term, the ranking officer of the political party in the respective house originally nominating the commission member shall submit a list of three nominees to the Governor. The Governor may appoint one of the listed nominees to the commission. If no nominee is selected from the list, the Governor shall so inform the nominating officer, who shall submit a list of three different nominees to the Governor within 30 days. Vacancies on the commission shall expeditiously be filled for the unexpired terms in the same manner.

(d) As the term of the chair of the commission expires or becomes vacant, a successor shall be appointed in the manner of the original appointment, and shall serve for a maximum of 4 years, such term to run concurrently with the term of the appointing Governor and until a future successor is appointed.

(e) In no event may any member of the commission serve more than two full terms. Members of the commission shall be paid travel and per diem as provided in s. 112.061 while in performance of their duties and in traveling to, from, and upon same. Of the nine members of the commission, no more than five members shall be from the same political party at any one time.

(2) No member of the commission shall be a member of any county, state, or national committee of a political party; be an officer in any partisan political club or organization; or hold, or be a candidate for, any other public office. No person shall be appointed as a member of the commission who has held an elective public office or office in a political party within the year immediately preceding his or her appointment.

(3) The commission shall convene at the call of its chair or at the request of a majority of the members of the commission. The presence of five members is required to constitute a quorum, and the affirmative vote of the majority of the members present is required for any action or recommendation by the commission. The commission may meet in any city of the state.

(4) The commission shall appoint an executive director, who shall serve under the direction, supervision, and control of the commission. The executive director, with the consent of the commission, shall employ such staff as are necessary to adequately perform the functions of the commission, within budgetary limitations. All employees, except the executive director and attorneys, are subject to part II of chapter 110. The executive director shall serve at the pleasure of the commission and be subject to part III of chapter 110, except that the commission shall have complete authority for setting the executive director's salary. Attorneys employed by the commission shall be subject to part V of chapter 110.

(5) Hearings shall be held before the commission, except that the chair may direct that any hearing be held before one member of the commission or a panel of less than the full commission. The commission shall adopt rules to provide for the filing of a report when hearings are held by a single commissioner or a panel, which rules shall prescribe the time for filing the report and the contents of the report.

(6) There is established in the State Treasury an Elections Commission Trust Fund to be used by the Florida Elections Commission in order to carry out its duties pursuant to ss. 106.24-106.28. The trust fund may also be used by the Secretary of State, pursuant to his or her authority under s. 97.012(14), to provide rewards for information leading to criminal convictions related to voter registration fraud, voter fraud, and vote scams.

(7) The commission shall develop a budget request pursuant to chapter 216 annually. The budget is not subject to change by the Department of Legal Affairs or the Attorney General, but it shall be submitted by the Department of Legal Affairs to the Governor for transmittal to the Legislature.

(8) The commission is authorized to contract or consult with appropriate agencies of state government for such professional assistance as may be needed in the discharge of its duties.

History.—s. 24, ch. 73-128; s. 10, ch. 74-200; s. 59, ch. 77-175; s. 63, ch. 79-400; s. 1, ch. 82-46; s. 2, ch. 83-265; s. 19, ch. 89-256; s. 36, ch. 89-338; s. 38, ch. 90-315; ss. 4, 14, 15, ch. 90-338; s. 5, ch. 91-429; s. 1, ch. 93-262; s. 652, ch. 95-147; s. 48, ch. 97-13; s. 3, ch. 2002-281; s. 69, ch. 2005-277; s. 32, ch. 2008-95; s. 5, ch. 2010-16.

#### 106.25 Reports of alleged violations to Florida Elections Commission; disposition of findings.—

(1) Jurisdiction to investigate and determine violations of this chapter and chapter 104 is vested in the Florida Elections Commission; however, nothing in this section limits the jurisdiction of any other officers or agencies of government empowered by law to investigate, act upon, or dispose of alleged violations of this code.

(2) The commission shall investigate all violations of this chapter and chapter 104, but only after having received either a sworn complaint or information reported to it under this subsection by the Division of Elections. Such sworn complaint must be based upon personal information or information other than hearsay. Any person, other than the division, having information of any violation of this chapter or chapter 104 shall file a sworn complaint with the commission. The commission shall investigate only those alleged violations specifically contained within the sworn complaint. If any complainant fails to allege all violations that arise from the facts or allegations alleged in a complaint, the commission shall be barred from investigating a subsequent complaint from such complainant that is based upon such facts or allegations that were raised or could have been raised in the first complaint. If the complaint includes allegations of violations relating to expense items reimbursed by a candidate, committee, or organization to the campaign account before a sworn complaint is filed, the commission shall be barred from investigating such allegations. Such sworn complaint shall state whether a complaint of the same violation has been made to any state attorney. Within 5 days after receipt of a

sworn complaint, the commission shall transmit a copy of the complaint to the alleged violator. The respondent shall have 14 days after receipt of the complaint to file an initial response, and the executive director may not determine the legal sufficiency of the complaint during that time period. If the executive director finds that the complaint is legally sufficient, the respondent shall be notified of such finding by letter, which sets forth the statutory provisions alleged to have been violated and the alleged factual basis that supports the finding. All sworn complaints alleging violations of the Florida Election Code over which the commission has jurisdiction shall be filed with the commission within 2 years after the alleged violations. The period of limitations is tolled on the day a sworn complaint is filed with the commission. The complainant may withdraw the sworn complaint at any time prior to a probable cause hearing if good cause is shown. Withdrawal shall be requested in writing, signed by the complainant, and witnessed by a notary public, stating the facts and circumstances constituting good cause. The executive director shall prepare a written recommendation regarding disposition of the request which shall be given to the commission together with the request. "Good cause" shall be determined based upon the legal sufficiency or insufficiency of the complaint to allege a violation and the reasons given by the complainant for wishing to withdraw the complaint. If withdrawal is permitted, the commission must close the investigation and the case. No further action may be taken. The complaint will become a public record at the time of withdrawal.

(3) For the purposes of commission jurisdiction, a violation shall mean the willful performance of an act prohibited by this chapter or chapter 104 or the willful failure to perform an act required by this chapter or chapter 104. The commission may not by rule determine what constitutes willfulness or further define the term "willful" for purposes of this chapter or chapter 104. Willfulness is a determination of fact; however, at the request of the respondent at any time after probable cause is found, willfulness may be considered and determined in an informal hearing before the commission.

(4) The commission shall undertake a preliminary investigation to determine if the facts alleged in a sworn complaint or a matter initiated by the division constitute probable cause to believe that a violation has occurred.

(a) When the investigator's report is completed, the executive director shall notify the respondent that the report is completed and shall send to the respondent a copy of the investigator's report. The investigatory file and main complaint file shall be open for inspection by the respondent and the respondent's counsel at that time, and copies may be obtained at no more than cost.

(b) The respondent shall be given not less than 14 days from the date of mailing of the investigator's report to file with the commission a written response to the investigator's report. This time period may be shortened with the consent of the respondent, or without the consent of the respondent when the passage of time could reasonably be expected to render moot the ultimate disposition of the matter by the commission so long as reasonable notice under the circumstances is given.

(c) Counsel for the commission shall review the investigator's report and shall make a written recommendation to the commission for the disposition of the complaint. If the counsel for the commission recommends that the commission find probable cause, the recommendation shall include a statement of what charges shall be at issue. A copy of the recommendation shall be furnished to the respondent. The respondent shall be given not less than 14 days from the date of mailing of the recommendation of counsel for the commission to file with the commission a written response to the recommendation. This time period may be shortened with the consent of the respondent, or without the consent of the respondent when the passage of time could reasonably be expected to render moot the ultimate disposition of the matter by the commission, so long as the recommendation is furnished to the

respondent within a reasonable period of time under the circumstances.

(d) The respondent and each complainant, their counsel, and the counsel for the commission shall be permitted to attend the hearing at which the probable cause determination is made. Notice of the hearing shall be sent to the respondent, each complainant, and counsel for the commission at least 14 days before the hearing. This time period may be shortened with the consent of the respondent, or without the consent of the respondent when the passage of time could reasonably be expected to render moot the ultimate disposition of the matter by the commission, so long as the notice is furnished within a reasonable period of time under the circumstances.

(e) The probable cause determination is the conclusion of the preliminary investigation. The respondent and the counsel for the commission shall be permitted to make brief oral statements in the nature of oral argument to the commission, based on the investigator's report, before the probable cause determination. The commission's determination shall be based upon the investigator's report, the recommendation of counsel for the commission, the complaint, and staff recommendations, as well as any written statements submitted by the respondent and any oral statements made at the hearing. No testimony or other evidence will be accepted at the hearing.

(f) At its meeting to determine probable cause, the commission may continue its determination to allow further investigation; may order the issuance of a public report of its investigation if it finds no probable cause to believe that there has been a violation of this chapter or chapter 104, concluding the matter before it; may order a final, public hearing of the complaint if it finds probable cause to believe that there has been a violation of this chapter or chapter 104; or may take such other action as it deems necessary to resolve the complaint, consistent with due process of law. In making its determination, the commission may consider:

1. The sufficiency of the evidence against the respondent, as contained in the investigator's report;
2. The admissions and other stipulations of the respondent, if any;
3. The nature and circumstances of the respondent's actions;
4. The expense of further proceedings; and
5. Such other factors as it deems material to its decision.

If the commission finds probable cause, the commission shall determine what charges shall be at issue.

(g) If no probable cause is found, the commission shall dismiss the case and the case shall become a matter of public record, except as otherwise provided in this section, together with a written statement of the findings of the preliminary investigation and a summary of the facts which the commission shall send to the complainant and the alleged violator. A finding of no probable cause by the commission is a full adjudication of all such matters. The commission may not charge a respondent in a subsequent complaint alleging violations based upon the same actions, nonactions, or circumstances wherein the commission found no probable cause.

(h) If probable cause is found, the commission shall so notify the complainant and the alleged violator in writing. All documents made or received in the disposition of the complaint shall become public records upon a finding by the commission.

(i)1. Upon a commission finding of probable cause, the counsel for the commission shall attempt to reach a consent agreement with the respondent. At any time, the commission may enter into a consent order with a respondent without requiring the respondent to admit to a violation of law within the jurisdiction of the commission.

2. A consent agreement is not binding upon either party unless and until it is signed by the

respondent and by counsel for the commission upon approval by the commission.

3. Nothing herein shall be construed to prevent the commission from entering into a consent agreement with a respondent prior to a commission finding of probable cause if a respondent indicates in writing a desire to enter into negotiations directed towards reaching such a consent agreement. Any consent agreement reached under this subparagraph is subject to the provisions of subparagraph 2. and shall have the same force and effect as a consent agreement reached after the commission finding of probable cause.

(j) If a consent agreement is reached between the commission and the respondent, counsel for the commission shall send a copy of the signed agreement to both complainant and respondent.

In a case where probable cause is found, the commission shall make a preliminary determination to consider the matter or to refer the matter to the state attorney for the judicial circuit in which the alleged violation occurred. Notwithstanding any other provisions of this section, the commission may, at its discretion, dismiss any complaint at any stage of disposition if it determines that the public interest would not be served by proceeding further, in which case the commission shall issue a public report stating with particularity its reasons for the dismissal.

(5) A person alleged by the Elections Commission to have committed a violation of this chapter or chapter 104 may elect, as a matter of right, within 30 days after the date of the filing of the commission's allegations, to have a formal administrative hearing conducted by an administrative law judge in the Division of Administrative Hearings. The administrative law judge in such proceedings shall enter a final order, which may include the imposition of civil penalties, subject to appeal as provided in s. 120.68. If the person does not elect to have a hearing by an administrative law judge and does not elect to resolve the complaint by a consent order, the person is entitled to a formal or informal hearing conducted before the commission.

(6) It is the duty of a state attorney receiving a complaint referred by the commission to investigate the complaint promptly and thoroughly; to undertake such criminal or civil actions as are justified by law; and to report to the commission the results of such investigation, the action taken, and the disposition thereof. The failure or refusal of a state attorney to prosecute or to initiate action upon a complaint or a referral by the commission shall not bar further action by the commission under this chapter.

(7) Every sworn complaint filed pursuant to this chapter with the commission, every investigation and investigative report or other paper of the commission with respect to a violation of this chapter or chapter 104, and every proceeding of the commission with respect to a violation of this chapter or chapter 104 is confidential, is exempt from the provisions of ss. 119.07(1) and 286.011, and is exempt from publication in the Florida Administrative Weekly of any notice or agenda with respect to any proceeding relating to such violation, except under the following circumstances:

- (a) As provided in subsection (6);
- (b) Upon a determination of probable cause or no probable cause by the commission; or
- (c) For proceedings conducted with respect to appeals of fines levied by filing officers for the late filing of reports required by this chapter.

However, a complainant is not bound by the confidentiality provisions of this section. In addition, confidentiality may be waived in writing by the person against whom the complaint has been filed or the investigation has been initiated. If a finding of probable cause in a case is entered within 30 days prior to the date of the election with respect to which the alleged violation occurred, such finding and the

proceedings and records relating to such case shall not become public until noon of the day following such election. When two or more persons are being investigated by the commission with respect to an alleged violation of this chapter or chapter 104, the commission may not publicly enter a finding of probable cause or no probable cause in the case until a finding of probable cause or no probable cause for the entire case has been determined. However, once the confidentiality of any case has been breached, the person or persons under investigation have the right to waive the confidentiality of the case, thereby opening up the proceedings and records to the public. Any person who discloses any information or matter made confidential by the provisions of this subsection commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(8) Any person who files a complaint pursuant to this section while knowing that the allegations contained in such complaint are false or without merit commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(9) The commission shall maintain a database of all final orders and agency actions. Such database shall be available to the public and shall be maintained in such a manner as to be searchable, at a minimum, by issue, statutes, individuals, or entities referenced.

History.—s. 25, ch. 73-128; s. 11, ch. 74-200; s. 60, ch. 77-175; s. 3, ch. 78-403; s. 1, ch. 82-46; s. 2, ch. 83-265; s. 39, ch. 84-302; s. 20, ch. 89-256; ss. 5, 14, 15, ch. 90-338; s. 21, ch. 90-360; s. 18, ch. 91-107; s. 5, ch. 91-429; s. 26, ch. 96-406; s. 49, ch. 97-13; s. 34, ch. 98-129; s. 21, ch. 2004-252; s. 48, ch. 2007-30; s. 16, ch. 2010-167; s. 70, ch. 2011-40.

#### 106.26 Powers of commission; rights and responsibilities of parties; findings by commission.—

(1) The commission shall, pursuant to rules adopted and published in accordance with chapter 120, consider all sworn complaints filed with it and all matters reported to it by the Division of Elections. In order to carry out the responsibilities prescribed by this chapter, the commission is empowered to subpoena and bring before it, or its duly authorized representatives, any person in the state, or any person doing business in the state, or any person who has filed or is required to have filed any application, document, papers, or other information with an office or agency of this state or a political subdivision thereof and to require the production of any papers, books, or other records relevant to any investigation, including the records and accounts of any bank or trust company doing business in this state. Duly authorized representatives of the commission are empowered to administer all oaths and affirmations in the manner prescribed by law to witnesses who shall appear before them concerning any relevant matter. Should any witness fail to respond to the lawful subpoena of the commission or, having responded, fail to answer all lawful inquiries or to turn over evidence that has been subpoenaed, the commission may file a complaint in the circuit court where the witness resides setting up such failure on the part of the witness. On the filing of such complaint, the court shall take jurisdiction of the witness and the subject matter of said complaint and shall direct the witness to respond to all lawful questions and to produce all documentary evidence in the witness's possession which is lawfully demanded. The failure of any witness to comply with such order of the court shall constitute a direct and criminal contempt of court, and the court shall punish said witness accordingly. However, the refusal by a witness to answer inquiries or turn over evidence on the basis that such testimony or material will tend to incriminate such witness shall not be deemed refusal to comply with the provisions of this chapter. The sheriffs in the several counties shall make such service and execute all process or orders when required by the commission. Sheriffs shall be paid for these services by the commission as provided for in s. 30.231. Any person who is served with a subpoena to attend a hearing of the commission also shall be served with a general statement informing him or her of the subject matter of the commission's investigation or inquiry and a notice that he or she may be accompanied at the hearing by counsel of his

or her own choosing.

(2) All witnesses summoned before the commission, other than on the request of the subject of a hearing, shall receive reimbursement for travel expenses and per diem at the rates provided in s. 112.061. However, the fact that such reimbursement is not tendered at the time the subpoena is served shall not excuse the witness from appearing as directed therein.

(3) Upon request of any person having business before the commission, and with the approval of a majority of the commission, the chair or, in the chair's absence, the vice chair shall instruct all witnesses to leave the hearing room and retire to a designated place. The witness will be instructed by the chair or, in the chair's absence, the vice chair not to discuss his or her testimony or the testimony of any other person with anyone until the hearing has been adjourned and the witness discharged by the chair. The witness shall be further instructed that should any person discuss or attempt to discuss the matter under investigation with him or her after receiving such instructions the witness shall bring such matter to the attention of the commission. No member of the commission or representative thereof may discuss any matter or matters pertinent to the subject matter under investigation with witnesses to be called before the commission from the time that these instructions are given until the hearing has been adjourned and the witness discharged by the chair.

(4) The commission, when interrogating witnesses as provided herein, shall cause a record to be made of all proceedings in which testimony or other evidence is demanded or adduced. This record shall include rulings of the chair, questions of the commission and its counsel, testimony or responses of witnesses, sworn written statements submitted to the commission, and all other pertinent matters. A witness at a hearing, upon his or her advance request and at his or her own expense, shall be furnished a certified transcript of all testimony taken at the hearing.

(5) Before or during a hearing, any person noticed to appear before the commission, or the person's counsel, may file with the commission, for incorporation into the record of the hearing, sworn written statements relevant to the purpose, subject matter, and scope of the commission's investigation or inquiry. Any such person shall, however, prior to filing such statement, consent to answer questions from the commission regarding the contents of the statement.

(6) Any person whose name is mentioned or who is otherwise identified during a hearing being conducted by the commission and who, in the opinion of the commission, may be adversely affected thereby may, upon his or her request or upon the request of any member of the commission, appear personally before the commission and testify on his or her own behalf or, with the commission's consent, file a sworn written statement of facts or other documentary evidence for incorporation into the record of the hearing. Any such person shall, however, prior to filing such statement, consent to answer questions from the commission regarding the contents of the statement.

(7) Upon the consent of a majority of its members, the commission may permit any other person to appear and testify at a hearing or submit a sworn written statement of facts or other documentary evidence for incorporation into the record thereof. No request to appear, appearance, or submission shall limit in any way the commission's power of subpoena. Any such person shall, however, prior to filing such statement, consent to answer questions from the commission regarding the contents of the statement.

(8) Any person who appears before the commission pursuant to this section shall have all the rights, privileges, and responsibilities of a witness appearing before a court of competent jurisdiction.

(9) If the commission fails in any material respect to comply with the requirements of this section, any person subject to subpoena or subpoena duces tecum who is injured by such failure shall be relieved

of any requirement to attend the hearing for which the subpoena was issued or, if present, to testify or produce evidence therein; and such failure shall be a complete defense in any proceeding against such person for contempt or other punishment.

(10) Whoever willfully affirms or swears falsely in regard to any material matter or thing before the commission shall be guilty of a felony of the third degree and punished as provided by s. 775.082, s. 775.083, or s. 775.084.

(11) At the conclusion of its hearings concerning an alleged violation, the commission shall immediately begin deliberations on the evidence presented at such hearings and shall proceed to determine by affirmative vote of a majority of the members present whether a violation of this chapter or chapter 104 has occurred. Such determination shall promptly be made public. The order shall contain a finding of violation or no violation, together with brief findings of pertinent facts, and the assessment of such civil penalties as are permitted by this chapter or no such assessment and shall bear the signature or facsimile signature of the chair or vice chair.

(12) The commission by rule may determine violations which constitute minor offenses that can be resolved without further investigation by means of a plea of nolo contendere and payment of a fine.

(13) The commission may not issue advisory opinions and must, in all its deliberations and decisions, adhere to statutory law and advisory opinions of the division.

History.—s. 26, ch. 73-128; s. 12, ch. 74-200; s. 60, ch. 77-175; s. 4, ch. 78-403; s. 64, ch. 79-400; s. 1, ch. 82-46; s. 2, ch. 83-265; s. 21, ch. 89-256; ss. 6, 14, 15, ch. 90-338; s. 74, ch. 91-45; s. 5, ch. 91-429; s. 2, ch. 94-170; s. 1396, ch. 95-147; s. 50, ch. 97-13; s. 35, ch. 98-129; s. 71, ch. 2011-40.

#### 106.265 Civil penalties.—

<sup>1</sup>(1) The commission or, in cases referred to the Division of Administrative Hearings pursuant to s. 106.25(5), the administrative law judge is authorized upon the finding of a violation of this chapter or chapter 104 to impose civil penalties in the form of fines not to exceed \$1,000 per count, or, if applicable, to impose a civil penalty as provided in s. 104.271 or s. 106.19.

<sup>1</sup>(2) In determining the amount of such civil penalties, the commission or administrative law judge shall consider, among other mitigating and aggravating circumstances:

- (a) The gravity of the act or omission;
- (b) Any previous history of similar acts or omissions;
- (c) The appropriateness of such penalty to the financial resources of the person, political committee, committee of continuous existence, affiliated party committee, electioneering communications organization, or political party; and
- (d) Whether the person, political committee, committee of continuous existence, affiliated party committee, electioneering communications organization, or political party has shown good faith in attempting to comply with the provisions of this chapter or chapter 104.

<sup>1</sup>(3) If any person, political committee, committee of continuous existence, affiliated party committee, electioneering communications organization, or political party fails or refuses to pay to the commission any civil penalties assessed pursuant to the provisions of this section, the commission shall be responsible for collecting the civil penalties resulting from such action.

(4) Any civil penalty collected pursuant to the provisions of this section shall be deposited into the General Revenue Fund.

(5) Any fine assessed pursuant to this chapter shall be deposited into the General Revenue Fund.

(6) In any case in which the commission determines that a person has filed a complaint against another person with a malicious intent to injure the reputation of the person complained against by

filing the complaint with knowledge that the complaint contains one or more false allegations or with reckless disregard for whether the complaint contains false allegations of fact material to a violation of this chapter or chapter 104, the complainant shall be liable for costs and reasonable attorney's fees incurred in the defense of the person complained against, including the costs and reasonable attorney's fees incurred in proving entitlement to and the amount of costs and fees. If the complainant fails to pay such costs and fees voluntarily within 30 days following such finding by the commission, the commission shall forward such information to the Department of Legal Affairs, which shall bring a civil action in a court of competent jurisdiction to recover the amount of such costs and fees awarded by the commission.

History.—s. 61, ch. 77-175; s. 1, ch. 82-46; s. 2, ch. 83-265; s. 4, ch. 86-276; ss. 7, 14, 15, ch. 90-338; s. 5, ch. 91-429; s. 51, ch. 97-13; s. 36, ch. 98-129; s. 3, ch. 2000-355; s. 22, ch. 2004-252; ss. 24, 30, ch. 2011-6; s. 72, ch. 2011-40; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the House of Representatives over the Governor’s veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective “upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.” C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

#### 106.27 Determinations by commission; legal disposition.—

(1) Criminal proceedings for violations of this chapter or chapter 104 may be brought in the appropriate court of competent jurisdiction. Any such action brought under this chapter or chapter 104 shall be advanced on the docket of the court in which filed and put ahead of all other actions.

<sup>1</sup>(2) Civil actions may be brought by the commission for relief, including permanent or temporary injunctions, restraining orders, or any other appropriate order for the imposition of civil penalties provided by this chapter. Such civil actions shall be brought by the commission in the appropriate court of competent jurisdiction, and the venue shall be in the county in which the alleged violation occurred or in which the alleged violator or violators are found, reside, or transact business. Upon a proper showing that such person, political committee, committee of continuous existence, affiliated party committee, or political party has engaged, or is about to engage, in prohibited acts or practices, a permanent or temporary injunction, restraining order, or other order shall be granted without bond by such court, and the civil fines provided by this chapter may be imposed.

(3) Civil actions may be brought to enjoin temporarily the issuance of certificates of election to successful candidates who are alleged to have violated the provisions of this chapter or chapter 104. Such injunctions shall issue upon a showing of probable cause that such violation has occurred. Such actions shall be brought in the circuit court for the circuit in which is located the officer before whom the candidate qualified for office.

History.—s. 27, ch. 73-128; s. 13, ch. 74-200; s. 62, ch. 77-175; s. 1, ch. 82-46; s. 2, ch. 83-265; ss. 8, 14, 15, ch. 90-338; s. 5, ch. 91-429; s. 37, ch. 98-129; ss. 25, 30, ch. 2011-6; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the House of Representatives over the Governor’s veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective “upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.” C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

#### 106.28 Limitation of actions.—Actions for violation of this chapter must be commenced before 2

years have elapsed from the date of the violation.

History.—s. 28, ch. 73-128; s. 1, ch. 82-46; s. 2, ch. 83-265; s. 22, ch. 89-256; s. 14, ch. 90-338.

**106.29 Reports by political parties and affiliated party committees; restrictions on contributions and expenditures; penalties.—**

(1) The state executive committee and each county executive committee of each political party and any affiliated party committee regulated by chapter 103 shall file regular reports of all contributions received and all expenditures made by such committee. However, the reports shall not include contributions and expenditures that are reported to the Federal Election Commission. In addition, when a special election is called to fill a vacancy in office, each state executive committee, each affiliated party committee, and each county executive committee making contributions or expenditures to influence the results of the special election or the preceding special primary election must file campaign treasurers' reports on the dates set by the Department of State pursuant to s. 100.111. Such reports shall contain the same information as do reports required of candidates by s. 106.07 and shall be filed on the 10th day following the end of each calendar quarter, except that, during the period from the last day for candidate qualifying until the general election, such reports shall be filed on the Friday immediately preceding each special primary election, special election, primary election, and general election. In addition to the reports filed under this section, the state executive committee, each county executive committee, and each affiliated party committee shall file a copy of each prior written acceptance of an in-kind contribution given by the committee during the preceding calendar quarter as required under s. 106.08(6). Each state executive committee and affiliated party committee shall file its reports with the Division of Elections. Each county executive committee shall file its reports with the supervisor of elections in the county in which such committee exists. Any state or county executive committee or affiliated party committee failing to file a report on the designated due date shall be subject to a fine as provided in subsection (3). No separate fine shall be assessed for failure to file a copy of any report required by this section.

(2) The chair and treasurer of each state or county executive committee shall certify as to the correctness of each report filed by them on behalf of such committee. The leader and treasurer of each affiliated party committee under s. 103.092 shall certify as to the correctness of each report filed by them on behalf of such committee. Any committee chair, leader, or treasurer who certifies the correctness of any report while knowing that such report is incorrect, false, or incomplete commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3)(a) Any state or county executive committee or affiliated party committee failing to file a report on the designated due date shall be subject to a fine as provided in paragraph (b) for each late day. The fine shall be assessed by the filing officer, and the moneys collected shall be deposited in the General Revenue Fund.

(b) Upon determining that a report is late, the filing officer shall immediately notify the chair of the executive committee or the leader of the affiliated party committee as defined in s. 103.092 as to the failure to file a report by the designated due date and that a fine is being assessed for each late day. The fine shall be \$1,000 for a state executive committee, \$1,000 for an affiliated party committee, and \$50 for a county executive committee, per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. However, if an executive committee or an affiliated party committee fails to file a report on the Friday immediately preceding the special election or general election, the fine shall be \$10,000 per day for each day a state

executive committee is late, \$10,000 per day for each day an affiliated party committee is late, and \$500 per day for each day a county executive committee is late. Upon receipt of the report, the filing officer shall determine the amount of the fine which is due and shall notify the chair or leader as defined in s. 103.092. Notice is deemed complete upon proof of delivery of written notice to the mailing or street address on record with the filing officer. The filing officer shall determine the amount of the fine due based upon the earliest of the following:

1. When the report is actually received by such officer.
2. When the report is postmarked.
3. When the certificate of mailing is dated.
4. When the receipt from an established courier company is dated.
5. When the electronic receipt issued pursuant to s. 106.0705 is dated.

Such fine shall be paid to the filing officer within 20 days after receipt of the notice of payment due, unless appeal is made to the Florida Elections Commission pursuant to paragraph (c). An officer or member of an executive committee shall not be personally liable for such fine.

(c) The chair of an executive committee or the leader of an affiliated party committee as defined in s. 103.092 may appeal or dispute the fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and shall be entitled to a hearing before the Florida Elections Commission, which shall have the authority to waive the fine in whole or in part. Any such request shall be made within 20 days after receipt of the notice of payment due. In such case, the chair of the executive committee or the leader of the affiliated party committee as defined in s. 103.092 shall, within the 20-day period, notify the filing officer in writing of his or her intention to bring the matter before the commission.

(d) The appropriate filing officer shall notify the Florida Elections Commission of the repeated late filing by an executive committee or affiliated party committee, the failure of an executive committee or affiliated party committee to file a report after notice, or the failure to pay the fine imposed.

(4) Any contribution received by a state or county executive committee or affiliated party committee less than 5 days before an election shall not be used or expended in behalf of any candidate, issue, affiliated party committee, or political party participating in such election.

(5) No state or county executive committee or affiliated party committee, in the furtherance of any candidate or political party, directly or indirectly, shall give, pay, or expend any money, give or pay anything of value, authorize any expenditure, or become pecuniarily liable for any expenditure prohibited by this chapter. However, the contribution of funds by one executive committee to another or to established party organizations for legitimate party or campaign purposes is not prohibited, but all such contributions shall be recorded and accounted for in the reports of the contributor and recipient.

(6)(a) The national, state, and county executive committees of a political party and affiliated party committees may not contribute to any candidate any amount in excess of the limits contained in s. 106.08(2), and all contributions required to be reported under s. 106.08(2) by the national executive committee of a political party shall be reported by the state executive committee of that political party.

(b) A violation of the contribution limits contained in s. 106.08(2) is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. A civil penalty equal to three times the amount in excess of the limits contained in s. 106.08(2) shall be assessed against any executive committee found in violation thereof.

History.—s. 29, ch. 73-128; s. 14, ch. 74-200; s. 62, ch. 77-175; s. 65, ch. 79-400; ss. 14, 33, ch. 81-304; s. 1, ch. 82-46; s. 13, ch. 82-143; s. 2, ch. 83-265; s. 40, ch. 84-302; s. 23, ch. 89-256; s. 39, ch. 90-315; ss. 10, 14, ch. 90-338; ss. 8, 12, ch. 91-107; s. 3, ch. 95-140; s. 653, ch. 95-147; s. 8, ch. 97-13; ss. 23, 24, ch. 2004-252; s. 26, ch. 2005-286; s. 2, ch. 2005-360; ss. 26, 30, ch. 2011-6; s. 73, ch. 2011-40; HJR 7105, 2011 Regular Session.

<sup>1</sup>Note.—Section 30, ch. 2011-6, provides that “[t]his act shall take effect July 1, 2010.” Passed by the Senate and the House of Representatives over the Governor’s veto March 24, 2011. House Joint Resolution 7105, 2011 Regular Session, provides that C.S. for C.S. for H.B. 1207, 2010 Regular Session, which became ch. 2011-6, is effective “upon becoming a law, the veto of the Governor notwithstanding. If any law amended by this act was also amended by a law enacted during the 2010 Regular Session, such laws shall be construed as if they had been enacted at the same session of the Legislature, and full effect shall be given to each if possible.” C.S. for C.S. for H.B. 1207, 2010 Regular Session, became law on March 24, 2011.

#### 106.295 Leadership fund.—

(1) For purposes of this section:

(a) “Leadership fund” means accounts comprised of any moneys contributed to a political party, directly or indirectly, which are designated to be used at the partial or total discretion of a leader.

(b) “Leader” means the President of the Senate, the Speaker of the House of Representatives, the majority leader and the minority leader of each house, and any person designated by a political caucus of members of either house to succeed to any such position.

(2) Leadership funds are prohibited in this state. No leader shall accept any leadership funds.

(3) This section applies to leadership funds in existence on or after January 1, 1990.

History.—s. 24, ch. 89-256.

106.30 Short title.—Sections 106.30-106.36 may be cited as the “Florida Election Campaign Financing Act.”

History.—s. 1, ch. 86-276.

106.31 Legislative intent.—The Legislature finds that the costs of running an effective campaign for statewide office have reached a level which tends to discourage persons from becoming candidates and to limit the persons who run for such office to those who are independently wealthy, who are supported by political committees representing special interests which are able to generate substantial campaign contributions, or who must appeal to special interest groups for campaign contributions. The Legislature further finds that campaign contributions generated by such political committees are having a disproportionate impact vis-a-vis contributions from unaffiliated individuals, which leads to the misperception of government officials unduly influenced by those special interests to the detriment of the public interest. Furthermore, it is the intent of the Legislature that the purpose of public campaign financing is to make candidates more responsive to the voters of the State of Florida and as insulated as possible from special interest groups. The Legislature intends ss. 106.30-106.36 to alleviate these factors, dispel the misperception, and encourage qualified persons to seek statewide elective office who would not, or could not otherwise do so and to protect the effective competition by a candidate who uses public funding.

History.—s. 1, ch. 86-276; s. 67, ch. 2001-40.

#### 106.32 <sup>1</sup>Election Campaign Financing Trust Fund.—

(1) There is hereby established in the State Treasury an <sup>1</sup>Election Campaign Financing Trust Fund to be utilized by the Department of State as provided in ss. 106.30-106.36. If necessary, each year in which a general election is to be held for the election of the Governor and Cabinet, additional funds shall be transferred to the <sup>1</sup>Election Campaign Financing Trust Fund from general revenue in an amount

sufficient to fund qualifying candidates pursuant to the provisions of ss. 106.30-106.36.

(2) Proceeds from filing fees pursuant to ss. 99.092, 99.093, and 105.031 shall be deposited into the <sup>1</sup>Election Campaign Financing Trust Fund as designated in those sections.

(3) Proceeds from assessments pursuant to ss. 106.04, 106.07, and 106.29 shall be deposited into the <sup>1</sup>Election Campaign Financing Trust Fund as designated in those sections.

History.—s. 1, ch. 86-276; s. 19, ch. 91-107.

<sup>1</sup>Note.—The trust fund expired, effective November 4, 1996, by operation of s. 19(f), Art. III of the State Constitution.

**106.33 Election campaign financing; eligibility.**—Each candidate for the office of Governor or member of the Cabinet who desires to receive contributions from the <sup>1</sup>Election Campaign Financing Trust Fund shall, upon qualifying for office, file a request for such contributions with the filing officer on forms provided by the Division of Elections. If a candidate requesting contributions from the fund desires to have such funds distributed by electronic fund transfers, the request shall include information necessary to implement that procedure. For the purposes of ss. 106.30-106.36, candidates for Governor and Lieutenant Governor on the same ticket shall be considered as a single candidate. To be eligible to receive contributions from the fund, a candidate may not be an unopposed candidate as defined in s. 106.011(15) and must:

(1) Agree to abide by the expenditure limits provided in s. 106.34.

(2)(a) Raise contributions as follows:

1. One hundred fifty thousand dollars for a candidate for Governor.

2. One hundred thousand dollars for a candidate for Cabinet office.

(b) Contributions from individuals who at the time of contributing are not state residents may not be used to meet the threshold amounts in paragraph (a). For purposes of this paragraph, any person validly registered to vote in this state shall be considered a state resident.

(3) Limit loans or contributions from the candidate's personal funds to \$25,000 and contributions from national, state, and county executive committees of a political party to \$250,000 in the aggregate, which loans or contributions shall not qualify for meeting the threshold amounts in subsection (2).

(4) Submit to a postelection audit of the campaign account by the division.

History.—s. 1, ch. 86-276; s. 40, ch. 90-315; s. 20, ch. 91-107; s. 68, ch. 2001-40; s. 47, ch. 2005-278.

<sup>1</sup>Note.—The trust fund expired, effective November 4, 1996, by operation of s. 19(f), Art. III of the State Constitution.

**106.34 Expenditure limits.**—

(1) Any candidate for Governor and Lieutenant Governor or Cabinet officer who requests contributions from the <sup>1</sup>Election Campaign Financing Trust Fund shall limit his or her total expenditures as follows:

(a) Governor and Lieutenant Governor: \$2.00 for each Florida-registered voter.

(b) Cabinet officer: \$1.00 for each Florida-registered voter.

(2) The expenditure limit for any candidate with primary election opposition only shall be 60 percent of the limit provided in subsection (1).

(3) For purposes of this section, "Florida-registered voter" means a voter who is registered to vote in Florida as of June 30 of each odd-numbered year. The Division of Elections shall certify the total number of Florida-registered voters no later than July 31 of each odd-numbered year. Such total number shall be calculated by adding the number of registered voters in each county as of June 30 in the year of the certification date. For the 2006 general election, the Division of Elections shall certify the total number of Florida-registered voters by July 31, 2005.

(4) For the purposes of this section, the term “expenditure” does not include the payment of compensation for legal and accounting services rendered on behalf of a candidate.

History.—s. 1, ch. 86-276; s. 41, ch. 90-315; s. 21, ch. 91-107; s. 654, ch. 95-147; s. 48, ch. 2005-278.

<sup>1</sup>Note.—The trust fund expired, effective November 4, 1996, by operation of s. 19(f), Art. III of the State Constitution.

#### 106.35 Distribution of funds.—

(1) The division shall review each request for contributions from the <sup>1</sup>Election Campaign Financing Trust Fund and certify whether the candidate is eligible for such contributions. Notice of the certification decision shall be provided to the candidate. An adverse decision may be appealed to the Florida Elections Commission. The division shall adopt rules providing a procedure for such appeals.

(2)(a) Each candidate who has been certified to receive contributions from the <sup>1</sup>Election Campaign Financing Trust Fund shall be entitled to distribution of funds as follows:

1. For qualifying matching contributions making up all or any portion of the threshold amounts specified in s. 106.33(2), distribution shall be on a two-to-one basis.

2. For all other qualifying matching contributions, distribution shall be on a one-to-one basis.

(b) Qualifying matching contributions are those of \$250 or less from an individual, made after September 1 of the calendar year prior to the election. Any contribution received from an individual who is not a state resident at the time the contribution is made shall not be considered a qualifying matching contribution. For purposes of this paragraph, any person validly registered to vote in this state shall be considered a state resident. Aggregate contributions from an individual in excess of \$250 will be matched only up to \$250. A contribution from an individual, if made by check, must be drawn on the personal bank account of the individual making the contribution, as opposed to any form of business account, regardless of whether the business account is for a corporation, partnership, sole proprietorship, trust, or other form of business arrangement. For contributions made by check from a personal joint account, the match shall only be for the individual who actually signs the check.

(3)(a) Certification and distribution of funds shall be based on contributions to the candidate reported to the division for such purpose. The division shall review each report and verify the amount of funds to be distributed prior to authorizing the release of funds. The division may prescribe separate reporting forms for candidates for Governor and Cabinet officer.

(b) Notwithstanding the provisions of s. 106.11, a candidate who is eligible for a distribution of funds based upon qualifying matching contributions received and certified to the division on the report due on the 4th day prior to the election, may obligate funds not to exceed the amount which the campaign treasurer’s report shows the candidate is eligible to receive from the <sup>1</sup>Election Campaign Financing Trust Fund without the funds actually being on deposit in the campaign account.

(4) Distribution of funds shall be made beginning on the 32nd day prior to the primary and every 7 days thereafter.

(5) The division shall adopt rules providing for the weekly reports and certification and distribution of funds pursuant thereto required by this section. Such rules shall, at a minimum, provide specifications for electronically transmitted campaign treasurer’s reports outlining communication parameters and protocol, data record formats, and provisions for ensuring security of data and transmission.

History.—s. 1, ch. 86-276; s. 25, ch. 89-256; s. 42, ch. 90-315; s. 22, ch. 91-107; s. 69, ch. 2001-40; s. 49, ch. 2007-30; s. 74, ch. 2011-40.

<sup>1</sup>Note.—The trust fund expired, effective November 4, 1996, by operation of s. 19(f), Art. III of the State Constitution.

**106.353** Candidates voluntarily abiding by election campaign financing limits but not requesting public funds; irrevocable statement required; penalty.—

(1) Not later than qualifying for office, each candidate for the office of Governor or member of the Cabinet who has not made a request to receive contributions from the <sup>1</sup>Election Campaign Financing Trust Fund, but who wishes to voluntarily abide by the applicable expenditure limit set forth in s. 106.34 and the contribution limits on personal and party funds set forth in s. 106.33, shall file an irrevocable statement to that effect with the Secretary of State.

(2) Any candidate who files such a statement and subsequently exceeds such limits shall pay to the <sup>1</sup>Election Campaign Financing Trust Fund an amount equal to the amount of the excess contributions or expenditures. Such penalty shall not be an allowable campaign expense and shall be paid from personal funds of the candidate. However, if a nonparticipating candidate exceeds the expenditure limit as described in s. 106.355, a candidate signing the statement pursuant to this section may exceed the applicable expenditure limit to the extent the nonparticipating candidate exceeded the limit without being subject to a penalty.

History.—s. 23, ch. 91-107.

<sup>1</sup>Note.—The trust fund expired, effective November 4, 1996, by operation of s. 19(f), Art. III of the State Constitution.

**106.355** Nonparticipating candidate exceeding limits.—Whenever a candidate for the office of Governor or member of the Cabinet who has elected not to participate in election campaign financing under the provisions of ss. 106.30-106.36 exceeds the applicable expenditure limit provided in s. 106.34, all opposing candidates participating in such election campaign financing are, notwithstanding the provisions of s. 106.33 or any other provision requiring adherence to such limit, released from such expenditure limit to the extent the nonparticipating candidate exceeded the limit, are still eligible for matching contributions up to such limit, and shall not be required to reimburse any matching funds provided pursuant thereto. In addition, the Department of State shall, within 7 days after a request by a participating candidate, provide such candidate with funds from the <sup>1</sup>Election Campaign Financing Trust Fund equal to the amount by which the nonparticipating candidate exceeded the expenditure limit, not to exceed twice the amount of the maximum expenditure limits specified in s. 106.34(1)(a) and (b), which funds shall not be considered matching funds.

History.—s. 24, ch. 91-107.

<sup>1</sup>Note.—The trust fund expired, effective November 4, 1996, by operation of s. 19(f), Art. III of the State Constitution.

**106.36** Penalties; fines.—In addition to any other penalties which may be applicable under the election code, any candidate who receives contributions from the <sup>1</sup>Election Campaign Financing Trust Fund and who exceeds the applicable expenditure limit, except as authorized in ss. 106.353 and 106.355, or falsely reports qualifying matching contributions and thereby receives contributions from the <sup>1</sup>Election Campaign Financing Trust Fund to which the candidate was not entitled shall be fined an amount equal to three times the amount at issue, which shall be deposited in the <sup>1</sup>Election Campaign Financing Trust Fund.

History.—s. 1, ch. 86-276; s. 11, ch. 90-338; s. 25, ch. 91-107; s. 655, ch. 95-147.

<sup>1</sup>Note.—The trust fund expired, effective November 4, 1996, by operation of s. 19(f), Art. III of the State Constitution.