

Department of Legislative Services
Maryland General Assembly
2016 Session

FISCAL AND POLICY NOTE
First Reader

Senate Bill 290 (Senator Bates, *et al.*)
Education, Health, and Environmental Affairs

Election Laws - Loans to a Campaign Finance Entity

This bill requires a loan to a campaign finance entity from a third-party lender other than a financial institution or other entity in the business of making loans to be considered a campaign contribution in the amount of the outstanding principal balance of the loan. The bill requires that the terms of a loan to a campaign finance entity require that the loan be repaid no later than the end of the second year of the election cycle immediately following the election cycle in which the loan was made. The bill also specifies that if a loan results in a violation of campaign contribution limits, applicable penalties may be assessed against the lender, the candidate whose campaign finance entity received the loan, or both. Any statute of limitations associated with assessing such penalties begins on expiration of the repayment deadline for the loan.

Fiscal Summary

State Effect: The bill is not expected to materially affect State finances.

Local Effect: The bill is not expected to materially affect local government finances.

Small Business Effect: None.

Analysis

Current Law:

Loans to Campaign Finance Entities

A loan to a campaign finance entity is considered a contribution in the amount of the outstanding principal balance of the loan unless:

- (1) the loan is from a financial institution or other entity in the business of making loans; or
- (2) the loan is to the campaign finance entity of a candidate, repayment of the loan is personally guaranteed by the candidate, and the election cycle immediately following the election cycle in which the loan was made has not ended.

Generally, the terms of a loan to a campaign finance entity must be in writing; include the lender's name, address, and signature; state the schedule for repayment of the loan; state the interest rate of the loan; and be attached to the campaign finance report filed by the campaign finance entity for the reporting period during which the loan was made. A loan by a candidate or the candidate's spouse to a campaign finance entity of the candidate, however, does not have to comply with those requirements.

Contribution Limit

With the exception of contributions to ballot issue committees, transfers between campaign finance entities, and in-kind contributions of a political party central committee or legislative party caucus committee, a person may not make, directly or indirectly, aggregate contributions within a four-year election cycle of more than \$6,000 to any one campaign finance entity.

Penalties

Unless otherwise provided, a person who knowingly and willfully violates State campaign finance law is guilty of a misdemeanor and is subject to a fine of up to \$25,000 and/or imprisonment for up to one year. Unknowing violations are subject to a civil penalty of up to \$5,000.

Background: The Maryland Attorney General's Advisory Committee on Campaign Finance, in its January 4, 2011 report, expressed concern about candidates receiving loans from individuals or entities other than financial institutions or other entities in the business of making loans, for which the candidate personally guarantees repayment. The committee indicated that a candidate may be beholden to a wealthy lender for a large loan once in office, particularly since the repayment period can extend through the election cycle following the election cycle in which the loan was made. The committee recommended expanding liability for unpaid loans, clarifying the statute of limitations for loan-related violations to facilitate more robust enforcement, and improving disclosure for large loans.

Additional Information

Prior Introductions: SB 823 of 2015 received a hearing in the Senate Education, Health, and Environmental Affairs Committee, but no further action was taken.

Cross File: None.

Information Source(s): State Board of Elections, State Prosecutor's Office, Office of the Attorney General, Department of Legislative Services

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Analysis by: Scott D. Kennedy

Direct Inquiries to:
(410) 946-5510
(301) 970-5510