

HOUSE BILL 1432

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8lr1793

By: **Delegates Ivey and Vallario**

Introduced and read first time: February 11, 2008

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Election Law - Campaign Finance - Affidavit and Signature**

3 FOR the purpose of authorizing the State Board of Elections to accept a certain
4 electronic signature for certain documents; requiring a certain campaign finance
5 report submitted using an electronic form to be made under oath or affirmation,
6 require an electronic signature from a campaign finance entity's treasurer at a
7 certain time, and be made subject to the penalties for perjury; repealing certain
8 provisions for filing and maintaining a certain affidavit; authorizing a certain
9 treasurer to file a certain affidavit at certain times stating that the campaign
10 finance entity has not raised or spent a certain amount instead of filing a
11 certain report; providing that a campaign finance entity may file a certain
12 affidavit instead of filing a certain report; providing that a campaign finance
13 report preceded by a certain affidavit shall cover a certain period; prohibiting a
14 person from making an electronic submission of certain documents on behalf of
15 another person without that person's express consent; defining a certain term;
16 and generally relating to an affidavit of limited fundraising activity and an
17 electronic signature.

18 BY repealing and reenacting, with amendments,
19 Article - Election Law
20 Section 1-101, 13-304, 13-312, and 13-601
21 Annotated Code of Maryland
22 (2003 Volume and 2007 Supplement)

23 BY adding to
24 Article - Election Law
25 Section 13-104 and 13-305
26 Annotated Code of Maryland
27 (2003 Volume and 2007 Supplement)

28 BY repealing

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Article – Election Law
2 Section 13–305
3 Annotated Code of Maryland
4 (2003 Volume and 2007 Supplement)

5 BY repealing and reenacting, without amendments,
6 Article – Election Law
7 Section 13–309
8 Annotated Code of Maryland
9 (2003 Volume and 2007 Supplement)

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

12 **Article – Election Law**

13 1–101.

14 (a) In this article the following words have the meanings indicated unless a
15 different meaning is clearly intended from the context.

16 (b) “Absentee ballot” means a ballot not used in a polling place.

17 (c) “Authorized candidate campaign committee” means a political committee
18 established under Title 13 of this article and authorized by a candidate to promote the
19 candidate’s candidacy.

20 (d) (1) “Ballot” or “official ballot” includes:

21 (i) an absentee ballot;

22 (ii) a provisional ballot;

23 (iii) a document ballot; or

24 (iv) a voting machine ballot.

25 (2) “Ballot” or “official ballot” does not include:

26 (i) a sample ballot; or

27 (ii) a specimen ballot.

28 (e) “Ballot face” means a single side of a sheet on which are printed some or
29 all of the contests to be voted on by a voter.

30 (f) “Ballot issue committee” means a political committee that is formed to
31 promote the success or defeat of a question to be submitted to a vote at an election.

1 (g) "Ballot style" means a unique aggregation of contests that make up the
2 ballot for a particular group of voters identified by common characteristics of residence
3 location, party affiliation, or both.

4 (h) "Campaign finance entity" means a political committee established under
5 Title 13 of this article.

6 (i) "Campaign finance report" means a report, statement, affidavit, or other
7 document that is:

8 (1) authorized or required under this article;

9 (2) related to the campaign finance activities of a campaign finance
10 entity or to expenses associated with a legislative newsletter; and

11 (3) filed or submitted on a form prescribed by the State Board under
12 this article.

13 (j) "Campaign manager" means a person designated by a candidate, or the
14 candidate's representative, to exercise general overall responsibility for the conduct of
15 the candidate's political campaign.

16 (k) (1) "Campaign material" means any material that:

17 (i) contains text, graphics, or other images;

18 (ii) relates to a candidate, a prospective candidate, or the
19 approval or rejection of a question; and

20 (iii) is published or distributed.

21 (2) "Campaign material" includes:

22 (i) material transmitted by or appearing on the Internet or
23 other electronic medium; and

24 (ii) an oral commercial campaign advertisement.

25 (1) (1) "Candidate" means an individual who files a certificate of
26 candidacy for a public or party office.

27 (2) "Candidate" includes:

28 (i) an incumbent judge of the Court of Appeals or Court of
29 Special Appeals at an election for continuance in office; and

1 (ii) an individual, prior to that individual filing a certificate of
2 candidacy, if a campaign finance entity has been established on behalf of that
3 individual.

4 (m) (1) “Contest” means:

5 (i) the aggregate of candidates who run against each other or
6 among themselves for nomination for, or election to, an office or multiple offices of the
7 same category; or

8 (ii) the positive and negative voting options for a question
9 submitted to the voters.

10 (2) “Contest” includes, in a general election for an office, the write-in
11 option.

12 (n) “Continuing political committee” means a political committee that is
13 permitted to continue in existence from year to year.

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

18 (2) “Contribution” includes proceeds from the sale of tickets to a
19 campaign fund-raising event.

20 (p) “County” means a county of the State or Baltimore City.

21 (q) “Disabled” means having a temporary or permanent physical disability.

22 (r) (1) “Distributor” means a person engaged for profit in the distribution
23 of campaign material by hand delivery or direct mail.

24 (2) “Distributor” does not include salaried employees, agents, or
25 volunteers of the person.

26 (s) (1) “Document ballot” means a ballot used with a voting system in
27 which the voter individually is issued a ballot on which to indicate one or more votes.

28 (2) “Document ballot” includes:

29 (i) a machine-read ballot, such as an optically scanned ballot;
30 and

31 (ii) a hand-counted paper ballot.

1 (t) "Driver's license" includes an identification card issued by the Motor
2 Vehicle Administration.

3 (u) "Elderly" means 65 years of age or older.

4 (v) (1) "Election" means the process by which voters cast votes on one or
5 more contests under the laws of this State or the United States.

6 (2) "Election" includes, unless otherwise specifically provided in this
7 article, all general elections, primary elections, and special elections.

8 (3) "Election" does not include, unless otherwise specifically provided
9 in this article, a municipal election other than in Baltimore City.

10 (w) "Election cycle" means the period that begins on the January 1 that
11 follows a gubernatorial election and continues until the December 31 that is 4 years
12 later.

13 (x) **"ELECTRONIC SIGNATURE" MEANS AN ELECTRONIC SOUND,
14 SYMBOL, OR PROCESS ATTACHED TO OR LOGICALLY ASSOCIATED WITH A
15 RECORD AND EXECUTED OR ADOPTED BY A PERSON WITH THE INTENT TO SIGN
16 THE RECORD.**

17 (Y) "Electronic storage format" means a computer disk or other information
18 storage and retrieval medium approved by the State Board.

19 [(y)] (Z) "Expenditure" means a gift, transfer, disbursement, or promise of
20 money or a thing of value by or on behalf of a campaign finance entity to:

21 (1) promote or assist in the promotion of the success or defeat of a
22 candidate, political party, or question at an election; or

23 (2) pay for the publication expense of a legislative newsletter under
24 Title 13, Subtitle 4 of this article.

25 [(z)] (AA) "Independent expenditure" means an expenditure by a person to
26 aid or promote the success or defeat of a candidate if the expenditure is not made in
27 coordination with, or at the request or suggestion of, the candidate, a campaign
28 finance entity of the candidate, or an agent of the candidate.

29 [(aa)] (BB) "Local board" means a county board of elections.

30 [(bb)] (CC) "Majority party" means the political party to which the incumbent
31 Governor belongs, if the incumbent Governor is a member of a principal political
32 party. If the incumbent Governor is not a member of one of the two principal political
33 parties, "majority party" means the principal political party whose candidate for

1 Governor received the highest number of votes of any party candidate at the last
2 preceding general election.

3 [(cc)] **(DD)** “Partisan organization” means a combination of two or more
4 individuals formed for the purpose of organizing a new political party.

5 [(dd)] **(EE)** “Political action committee” means a political committee that is
6 not:

7 (1) a political party;

8 (2) a central committee;

9 (3) a slate;

10 (4) a political committee organized and operated solely to support or
11 oppose a single candidate; or

12 (5) a political committee organized and operated solely to support or
13 oppose a ballot issue.

14 [(ee)] **(FF)** “Political committee” means a combination of two or more
15 individuals that assists or attempts to assist in promoting the success or defeat of a
16 candidate, political party, or question submitted to a vote at any election.

17 [(ff)] **(GG)** “Political party” means an organized group that is qualified as a
18 political party in accordance with Title 4 of this article.

19 [(gg)] **(HH)** “Precinct” includes:

20 (1) an election district in a county that is not divided into precincts;

21 (2) an election precinct in an election district that is divided into
22 precincts; or

23 (3) a precinct in a ward of the City of Baltimore.

24 [(hh)] **(II)** “Precinct register” means the list of voters for a single precinct.

25 [(ii)] **(JJ)** “Principal minority party” means the principal political party
26 whose candidate for Governor received the second highest number of votes of any
27 party candidate at the last preceding general election.

28 [(jj)] **(KK)** “Principal political parties” means the majority party and the
29 principal minority party.

1 [(kk)] **(LL)** “Provisional ballot” means a ballot that is cast by an individual but
2 not counted until the individual’s qualifications to vote have been confirmed by the
3 local board.

4 [(ll)] **(MM)** “Responsible officers” means the chairman and treasurer of a
5 political committee.

6 [(mm)] **(NN)** “Sample ballot” means a facsimile of a ballot used for informational
7 purposes by a person or entity other than a local board.

8 [(nn)] **(OO)** “Slate” means a political committee of two or more candidates who
9 join together to conduct and pay for joint campaign activities.

10 [(oo)] **(PP)** “Specimen ballot” means a facsimile of a ballot used by a local
11 board to provide notice to registered voters of the contents of the ballot.

12 [(pp)] **(QQ)** “State Administrator” means the State Administrator of Elections.

13 [(qq)] **(RR)** “State Board” means the State Board of Elections.

14 [(rr)] **(SS)** “Transfer” means a monetary contribution that is made by one
15 campaign finance entity to another campaign finance entity, other than one made by
16 or to a political club.

17 [(ss)] **(TT)** “Treasurer” means an individual appointed in accordance with
18 Title 13, Subtitle 2 of this article.

19 [(tt)] **(UU)** “Vote” means to cast a ballot that is counted.

20 [(uu)] **(VV)** “Voting machine” includes:

21 (1) a mechanical lever machine; and

22 (2) a direct recording electronic voting device.

23 [(vv)] **(WW)** “Voting machine ballot” means a ballot posted on or in the voting
24 machine and referred to by the voter to indicate the voting locations for each contest.

25 [(ww)] **(XX)** “Voting system” means a method of casting and tabulating ballots
26 or votes.

27 [(xx)] **(YY)** “Write-in candidate” means an individual whose name will not
28 appear on the ballot but who files a certificate of candidacy in accordance with § 5-303
29 of this article.

1 [(yy)] (ZZ) "Write-in vote" means a vote cast, in a contest at a general
2 election, for an individual whose name is not on the ballot for that contest.

3 **13-104.**

4 **THE STATE BOARD MAY ACCEPT AN ELECTRONIC SIGNATURE FOR ANY**
5 **FORM, DOCUMENT, REPORT, OR AFFIDAVIT REQUIRED BY THE STATE BOARD**
6 **UNDER THIS TITLE.**

7 13-304.

8 (a) (1) From the date of its organization until its termination under the
9 provisions of this title, a campaign finance entity, except a political club, shall file a
10 campaign finance report at the times, for the periods, and at the locations required by
11 §§ 13-309, 13-312, and 13-316 of this subtitle.

12 (2) **A CAMPAIGN FINANCE REPORT SUBMITTED USING AN**
13 **ELECTRONIC FORMAT SHALL:**

14 (I) **BE MADE UNDER OATH OR AFFIRMATION;**

15 (II) **REQUIRE AN ELECTRONIC SIGNATURE FROM THE**
16 **TREASURER AT THE TIME OF THE FILING OF THE CAMPAIGN FINANCE REPORT;**
17 **AND**

18 (III) **BE MADE SUBJECT TO THE PENALTIES FOR PERJURY.**

19 (b) A campaign finance report filed by a campaign finance entity under
20 subsection (a) of this section shall include the information required by the State Board
21 with respect to all contributions received and all expenditures made by or on behalf of
22 the campaign finance entity during the designated reporting period.

23 (c) A campaign finance report prescribed by this subtitle for the campaign
24 finance entity of a candidate is required whether or not:

25 (1) the candidate files a certificate of candidacy;

26 (2) the candidate withdraws, declines a nomination, or otherwise
27 ceases to be a candidate;

28 (3) the candidate's name appears on the primary ballot; or

29 (4) the candidate is successful in the election.

30 [13-305.

1 (a) Subject to subsection (b) of this section, a candidate's authorized political
2 committee is not required to file the campaign finance reports required under § 13-304
3 of this subtitle if the responsible officers file an affidavit:

4 (1) on or before the day when the first campaign finance report is due;
5 and

6 (2) stating that the campaign finance entity does not intend either to
7 raise contributions in the cumulative amount of \$1,000 or more or, exclusive of the
8 filing fee, make expenditures in the cumulative amount of \$1,000 or more.

9 (b) If the campaign finance entity receives cumulative contributions of
10 \$1,000 or more or makes cumulative expenditures of \$1,000 or more, the campaign
11 finance entity shall file all subsequent campaign finance reports required under this
12 subtitle.

13 (c) (1) Notwithstanding subsection (a) of this section, and subject to
14 subsection (d) of this section, the responsible officers of a candidate's authorized
15 political committee may file an affidavit, instead of the campaign finance reports for
16 the period required under § 13-309(a) of this subtitle for an election in which the
17 political committee designates it will participate, if the affidavit:

18 (i) is filed on or before the day when the campaign finance
19 report is due; and

20 (ii) states that the campaign finance entity did not raise
21 contributions in the cumulative amount of \$1,000 or more or, exclusive of the filing fee,
22 make expenditures in the cumulative amount of \$1,000 or more for the period.

23 (2) (i) So long as the campaign finance entity does not receive
24 cumulative contributions of \$1,000 or more or make cumulative expenditures of \$1,000
25 or more during any reporting period:

26 1. the affidavit filed under paragraph (1) of this
27 subsection remains in effect; and

28 2. the campaign finance entity is not required to file a
29 campaign finance report required under § 13-309(a) of this subtitle.

30 (ii) A campaign finance entity subject to this paragraph shall
31 file the annual campaign finance report required under §
32 13-309(b) of this subtitle.

33 (d) After filing an affidavit under subsection (c)(1) of this section, if the
34 campaign finance entity receives cumulative contributions of \$1,000 or more or makes
35 cumulative expenditures of \$1,000 or more in a period, the campaign finance entity
36 shall file a campaign finance report for that period as required under § 13-309 of this
37 subtitle on or before the day that the campaign finance report is due.

1 (e) A violation of subsections (b) or (d) of this section constitutes a failure to
2 file by the campaign finance entity, and the responsible officers are guilty of a
3 misdemeanor and on conviction are subject to the penalties prescribed under Part VII
4 of this title.]

5 **13-305.**

6 (A) **INSTEAD OF FILING A REPORT REQUIRED UNDER § 13-309 OF THIS**
7 **SUBTITLE, A TREASURER MAY FILE AN AFFIDAVIT STATING THAT THE**
8 **CAMPAIGN FINANCE ENTITY HAS NOT RAISED OR SPENT A CUMULATIVE**
9 **AMOUNT OF \$500 OR MORE, EXCLUSIVE OF THE FILING FEE, AND REGARDLESS**
10 **OF THE BALANCE OF THE CAMPAIGN ACCOUNT, SINCE:**

11 (1) **ESTABLISHING THE CAMPAIGN FINANCE ENTITY; OR**

12 (2) **FILING THE CAMPAIGN FINANCE ENTITY'S LAST CAMPAIGN**
13 **FINANCE REPORT.**

14 (B) **THE AFFIDAVIT SHALL BE FILED ON OR BEFORE THE DATE A**
15 **CAMPAIGN FINANCE REPORT IS DUE TO BE FILED UNDER § 13-309 OF THIS**
16 **SUBTITLE.**

17 13-309.

18 (a) Subject to other provisions of this subtitle, a campaign finance entity
19 shall file campaign finance reports as follows:

20 (1) except for a ballot issue committee, on or before the fourth Tuesday
21 immediately preceding each primary election except a presidential primary election;

22 (2) except for a ballot issue committee, on or before the second Friday
23 immediately preceding a primary election;

24 (3) on or before the second Friday immediately preceding a general
25 election; and

26 (4) on or before the third Tuesday after a general election.

27 (b) (1) A campaign finance entity is subject to subsection (a) of this
28 section and this subsection only as to the election in which the entity designates that it
29 will participate.

30 (2) In addition to the campaign finance reports required under
31 subsection (a) of this section, but subject to paragraph (4) of this subsection, a

1 campaign finance entity shall file campaign finance reports on the third Wednesday in
2 January.

3 (3) (i) If subsequent to the filing of its declaration under §
4 13-208(c)(3) of this title, a campaign finance entity participates in an election in which
5 it was not designated to participate, the campaign finance entity shall file all
6 campaign reports prescribed under subsection (a) of this section for that election.

7 (ii) A violation of subparagraph (i) of this paragraph constitutes
8 a failure to file by the campaign finance entity, and the responsible officer is guilty of a
9 misdemeanor and on conviction is subject to the penalties prescribed under Part VII of
10 this subtitle.

11 (4) If a campaign finance entity has neither a cash balance nor an
12 outstanding obligation at the end of a reporting period, a campaign finance report for
13 that period, clearly marked as “final”, shall be filed on or before the due date, and no
14 further report is required.

15 (c) In addition to the campaign reports required under subsection (a) of this
16 section, a continuing political committee shall file a campaign finance report on the
17 third Wednesday in January of each year the committee is in existence.

18 13-312.

19 (A) Campaign finance reports filed under § 13-304 of this subtitle shall cover
20 the following reporting periods:

21 (1) the first campaign finance report shall cover the period from the
22 date of organization of the campaign finance entity through the day specified in item
23 (3) of this section;

24 (2) each subsequent campaign finance report shall cover the period
25 from the closing date of the previous campaign finance report through the day
26 specified in item (3) of this section;

27 (3) (i) except as provided in item (ii) of this item, each campaign
28 finance report shall cover the period that includes the seventh day before the day the
29 campaign finance report is due; but

30 (ii) the campaign finance report that is required on or before the
31 second Friday immediately preceding an election shall cover the period through and
32 including the preceding Sunday; and

33 (4) if no contribution is received and no expenditure is made during
34 the period covered by a campaign finance report, the campaign finance entity shall file
35 a campaign finance report **OR AN AFFIDAVIT UNDER § 13-305 OF THIS SUBTITLE** to
36 that effect.

1 **(B) A CAMPAIGN FINANCE REPORT PRECEDED BY AN AFFIDAVIT FILED**
2 **IN ACCORDANCE WITH THIS SUBTITLE SHALL COVER THE PERIOD FROM THE**
3 **CLOSING DATE OF THE PREVIOUS CAMPAIGN FINANCE REPORT OR DATE OF**
4 **ORGANIZATION OF THE CAMPAIGN FINANCE ENTITY THROUGH THE DAY**
5 **SPECIFIED IN SUBSECTION (A)(3) OF THIS SECTION.**

6 13-601.

7 (a) A person may not willfully make a false, fraudulent, or misleading
8 statement or entry in any campaign finance report or other filing that is under oath
9 and is required by this article.

10 **(b) A PERSON MAY NOT MAKE AN ELECTRONIC SUBMISSION OF A**
11 **PRESCRIBED FORM, AFFIDAVIT, CAMPAIGN FINANCE REPORT, OR OTHER**
12 **DOCUMENT ON BEHALF OF ANOTHER PERSON WITHOUT THAT PERSON'S**
13 **EXPRESS CONSENT.**

14 (c) A person who violates this section is guilty of perjury and on conviction
15 subject to the penalty provided under the Criminal Law Article.

16 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
17 July 1, 2008.