

Chapter 312

(House Bill 485)

AN ACT concerning

Election Law – Fair Campaign Financing Fund – Income Tax Checkoff

FOR the purpose of requiring the Comptroller to establish a checkoff on the individual income tax return through which certain individuals may make a contribution ~~up to a certain amount~~ to the Fair Campaign Financing Fund; requiring the Comptroller to credit certain funds to the Fair Campaign Financing Fund; providing that certain ~~fees and penalties be deposited in~~ fees, fines, and penalties that are assessed under the Election Law Article and the General Provisions Article be distributed to the Fair Campaign Financing Fund; authorizing voluntary contributions to be made to the Fair Campaign Financing Fund through the Web site of the State Board of Elections; requiring that certain anonymous contributions and certain surplus campaign funds be distributed to the Fair Campaign Financing Fund; authorizing the use of a certain amount of money in the Fair Campaign Financing Fund to pay certain costs of administering public campaign financing; requiring the Comptroller to take certain actions to administer the checkoff; prohibiting a gubernatorial ticket from soliciting certain contributions or operating in coordination for fundraising activities under certain circumstances; providing that the candidates on a certain gubernatorial ticket may not be a member of certain slates; prohibiting the authorized candidate campaign committee for a former gubernatorial ticket that qualified for public contributions from engaging in certain campaign finance activity under certain circumstances; prohibiting a certain gubernatorial ticket from making certain transfers or expenditures; providing for the application of certain provisions of this Act; and generally relating to the Fair Campaign Financing Fund.

BY repealing and reenacting, with amendments,

Article – Election Law

Section ~~15-103~~ 5-403, 13-235(f), 13-239, 13-247, 13-306(i), 13-307(i), 13-309.1(i), 13-340, 13-409, 13-604(d)(3), 13-604.1(s), 14-107(c), and 15-103, and 15-107

Annotated Code of Maryland

(2010 Replacement Volume and 2014 Supplement)

BY repealing and reenacting, without amendments,Article – Election LawSection 13-235(a) and (b), 13-309.1(g), 13-604(a)(1), and 13-604.1(b)Annotated Code of Maryland(2010 Replacement Volume and 2014 Supplement)

BY adding to

Article – Election Law

Section 13-604(g), 15-104.1, and 16-1003

Annotated Code of Maryland
(2010 Replacement Volume and 2014 Supplement)

BY repealing and reenacting, without amendments,

Article – General Provisions

Section 5–405(d) and (g)

Annotated Code of Maryland

(2014 Volume)

BY adding to

Article – General Provisions

Section 5–405(h)

Annotated Code of Maryland

(2014 Volume)

BY repealing and reenacting, with amendments,

Article – General Provisions

Section 5–903

Annotated Code of Maryland

(2014 Volume)

BY adding to

Article – Tax – General

Section 2–113.1

Annotated Code of Maryland

(2010 Replacement Volume and 2014 Supplement)

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

Article – Election Law

5–403.

[(a)] Filing fees paid by candidates under § 5–401 of this subtitle shall be distributed [as specified in this section.

(b) Filing fees received by a local board shall be transferred to the governing body of the county.

(c) Filing fees received by the State Board shall be divided and distributed:

(1) with respect to candidates for statewide office:

(i) \$60 to the Baltimore City Board of Elections; and

(ii) \$10 each to each other local board;

(2) with respect to candidates for any other public or party office in a multicounty district, in equal amounts to the local board of each county that contains part of the district to which the candidacy relates; and

(3) with respect to a candidate for a public or party office in a district wholly contained within one county, to the local board of that county] TO THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103 OF THIS ARTICLE.

13-235.

(a) This section applies to the following officials:

(1) the Governor;

(2) the Lieutenant Governor;

(3) the Attorney General;

(4) the Comptroller; and

(5) a member of the General Assembly.

(b) Except as provided in subsection (c), (d), or (e) of this section, during a regular session of the General Assembly an official described in subsection (a) of this section, or a person acting on behalf of the official, may not, as to a candidate for federal, State, or local office, or a campaign finance entity of the candidate or any other campaign finance entity organized under this title and operated in coordination with a candidate:

(1) receive a contribution;

(2) conduct a fund-raising event;

(3) solicit or sell a ticket to a fund-raising event; or

(4) deposit or use any contribution of money that was not deposited prior to the session.

(f) (1) As to a violation of this section, the campaign finance entity of the official in violation is liable for a civil penalty as provided in this subsection.

(2) The State Board, represented by the State Prosecutor, may institute a civil action in the circuit court for any county seeking the civil penalty provided in this subsection.

(3) A campaign finance entity that receives a contribution as a result of the violation shall:

- (i) refund the contribution to the contributor; and
- (ii) pay a civil penalty that equals the sum of \$1,000 plus the amount of the contribution.

(4) A CIVIL PENALTY IMPOSED UNDER THIS SUBSECTION SHALL BE DISTRIBUTED TO THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103 OF THIS ARTICLE.

13-239.

Except as provided in § 13-240 of this subtitle, if a campaign finance entity receives a contribution from an anonymous source, the campaign finance entity:

- (1) may not use the contribution for any purpose; and
- (2) shall remit the contribution to the [State Treasurer] FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103 OF THIS ARTICLE.

13-247.

After all campaign expenditures have been made and before filing a final campaign finance report under Subtitle 3 of this title, any remaining balance in the account of a campaign finance entity shall be returned pro rata to the contributors or paid to:

- (1) if the campaign finance entity is a personal treasurer or a political committee formed to support a candidate or act for a political party:
 - (i) the State central committee of the political party:
 - 1. of which the candidate is a member; or
 - 2. for which the political committee is acting;
 - (ii) the local central committee of the political party:
 - 1. of which the candidate is a member in a county in which the candidate resides or which the candidate seeks to represent; or
 - 2. for which the political committee is acting;
 - (iii) the board of education of a county in which the candidate resides or which the candidate seeks to represent;

(2) a nonprofit organization that provides services or funds for the benefit of pupils or teachers;

(3) a charitable organization registered or exempt from registration under the Maryland Charitable Solicitations Act; [or]

(4) THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103 OF THIS ARTICLE; OR

~~[(4)]~~ **(5) a public or private institution of higher education in the State if:**

(i) that institution possesses a certificate of approval from the Maryland Higher Education Commission; and

(ii) the payment is designated for use by the institution solely to award scholarships, grants, or loans to students attending the institution.

13-306.

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

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

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

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

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

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

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

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

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

(ii) distributed to the [General Fund of the State] **FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15–103 OF THIS ARTICLE.**

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

13–307.

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

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

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

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

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

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

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

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

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

(ii) distributed to the [General Fund of the State] **FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15–103 OF THIS ARTICLE.**

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

13-309.1.

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

(1) \$1,000 for each day or part of a day that a disclosure report or an amended campaign finance report is overdue; or

(2) 10% of the amount of the contributions or expenditures that were not reported in a timely manner.

(i) A penalty under subsection (g) of this section shall be:

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

(2) distributed to the [General Fund of the State] **FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103 OF THIS ARTICLE.**

13-340.

Fees for late filing of campaign finance reports, affidavits, or amended campaign finance reports imposed under § 13-331 of this subtitle shall be [paid to the State Board and be applied to pay the expenses of collection and of any audits of campaign finance reports performed by or at the direction of the State Administrator] **DISTRIBUTED TO THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103 OF THIS ARTICLE.**

13-409.

(a) There is a \$10 late filing fee for each day or part of a day, excluding a Saturday, Sunday, or holiday, that a campaign finance report required by § 13-408 of this subtitle is overdue.

(b) The maximum fee payable is \$250.

(c) A late fee assessed under this section shall be:

(1) paid from the personal funds of the incumbent; AND

(2) DISTRIBUTED TO THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103 OF THIS ARTICLE.

13-604.

(a) (1) A person who violates a provision of this title without knowing that the act is illegal shall pay a civil penalty in accordance with subsections (b) through (g) of this section.

(d) (3) The District Court shall [remit to the State Board] DISTRIBUTE all late fees collected TO THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103 OF THIS ARTICLE.

(G) A CIVIL PENALTY IMPOSED UNDER THIS SECTION SHALL BE DISTRIBUTED TO THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103 OF THIS ARTICLE.

13-604.1.

(b) The State Board may impose a civil penalty in accordance with this section for the following violations:

(1) making a disbursement in a manner not authorized in § 13-218(b)(2), (c), and (d) of this title;

(2) failure to maintain a campaign bank account as required in § 13-220(a) of this title;

(3) making a disbursement by a method not authorized in § 13-220(d) of this title;

(4) failure to maintain detailed and accurate account books and records as required in § 13-221 of this title;

(5) failure to report all contributions received and expenditures made as required in § 13-304(b) of this title;

(6) failure to include an authority line on campaign material as required in § 13-401 of this title; or

(7) failure to retain a copy of campaign material as required in § 13-403 of this title.

(s) Penalties collected under this section shall be distributed to the [General Fund of the State] FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103 OF THIS ARTICLE.

14-107.

(c) (1) As provided in this subsection, the State Board may impose fees for late filing of:

(i) a statement required under § 14-104 of this title; or

(ii) an amended statement required under subsection (b) of this section.

(2) The State Board may impose late filing fees in the same amounts and in the same manner as provided under § 13-331(a) and (b) of this article for late filing of campaign finance reports.

(3) Late filing fees imposed under this subsection shall be distributed to the [General Fund of the State] FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103 OF THIS ARTICLE.

15-103.

(a) There is a Fair Campaign Financing Fund.

(b) The Comptroller shall administer the Fund in accordance with this section.

(c) In accordance with this title, the Comptroller shall:

(1) credit to the Fund:

(I) all money collected under this title; ~~AND~~

(II) VOLUNTARY CONTRIBUTIONS TO THE FUND MADE ELECTRONICALLY THROUGH THE STATE BOARD’S WEB SITE;

(III) FEES, FINES, AND PENALTIES ASSESSED UNDER THIS ARTICLE OR THE GENERAL PROVISIONS ARTICLE THAT ARE EXPRESSLY ALLOCATED TO THE FUND BY LAW;

(IV) AN ANONYMOUS CONTRIBUTION PAID TO THE FUND UNDER § 13-239 OF THIS ARTICLE;

(V) SURPLUS CAMPAIGN FUNDS PAID TO THE FUND UNDER § 13-247 OF THIS ARTICLE; AND

(VI) CONTRIBUTIONS TO THE FUND MADE THROUGH THE CHECKOFF ON THE INDIVIDUAL INCOME TAX RETURN ESTABLISHED UNDER § 2-113.1 OF THE TAX – GENERAL ARTICLE;

(2) subject to the usual investing procedures for State funds, invest the money in the Fund; and

(3) make distributions from the Fund promptly on authorization by the State Board.

(d) The Comptroller shall distribute public contributions:

(1) only on authorization of the State Board; and

(2) as to each eligible gubernatorial ticket, to the same campaign account of a single campaign finance entity established under Title 13, Subtitle 2 of this article.

(e) The Comptroller shall submit a statement of the Fund's balance to the State Board at the State Board's request and on May 15 of each year.

~~16-1003.~~

~~NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A FINE OR CIVIL PENALTY COLLECTED FOR A VIOLATION UNDER THIS ARTICLE SHALL BE DEPOSITED IN THE FAIR CAMPAIGN FINANCING FUND UNDER TITLE 15 OF THIS ARTICLE.~~

(F) TO PAY COSTS DIRECTLY RELATED TO THE ADMINISTRATION OF THIS TITLE, THE STATE BOARD MAY EXPEND IN EACH FISCAL YEAR AN AMOUNT OF MONEY IN THE FUND THAT DOES NOT EXCEED THE LESSER OF:

(1) 3% OF THE FUND'S BALANCE, AS CALCULATED ON THE LAST DAY OF THE IMMEDIATELY PRECEDING FISCAL YEAR; OR

(2) \$100,000.

15-104.1.

(A) AFTER FILING A NOTICE OF INTENT TO QUALIFY FOR A PUBLIC CONTRIBUTION UNDER THIS TITLE, A GUBERNATORIAL TICKET OR A PERSON ACTING ON BEHALF OF THE GUBERNATORIAL TICKET MAY NOT, FOR THE BENEFIT OF ANY POLITICAL COMMITTEE OR ANY PERSON REQUIRED TO REGISTER WITH THE STATE

BOARD UNDER § 13-306 OR § 13-307 OF THIS ARTICLE OR FOR A PARTICIPATING ORGANIZATION ORGANIZED UNDER § 13-309.2 OF THIS ARTICLE:

(1) SOLICIT CONTRIBUTIONS, INCLUDING THE AUTHORIZED USE OF THE NAMES OR IMAGES OF THE GUBERNATORIAL TICKET IN THE SOLICITATION; OR

(2) OPERATE IN COORDINATION WITH ANY ENTITY FOR FUNDRAISING ACTIVITIES.

(B) AFTER FILING A NOTICE OF INTENT TO QUALIFY FOR A PUBLIC CONTRIBUTION UNDER THIS TITLE, THE MEMBERS OF A GUBERNATORIAL TICKET MAY NOT BE A MEMBER OF A SLATE THAT DOES NOT RECEIVE A PUBLIC CONTRIBUTION.

(C) UNTIL A FINAL CAMPAIGN FINANCE REPORT IS FILED WITH THE STATE BOARD AND ANY REMAINING FUNDS OF THE PUBLIC CONTRIBUTION DISTRIBUTED TO A GUBERNATORIAL TICKET ARE REPAID TO THE COMPTROLLER FOR REDEPOSIT IN THE FUND IN ACCORDANCE WITH § 15-107 OF THIS SUBTITLE, ANY AUTHORIZED CANDIDATE CAMPAIGN COMMITTEE ORGANIZED UNDER TITLE 13 OF THIS ARTICLE ON BEHALF OF THE MEMBERS OF A GUBERNATORIAL TICKET MAY NOT ENGAGE IN CAMPAIGN FINANCE ACTIVITY.

15-107.

(a) A public contribution may be spent only:

(1) in accordance with § 13-218 of this article;

(2) to further the gubernatorial ticket's nomination or election;

(3) for expenses incurred not later than 30 days after the election for which the public contribution was made; and

(4) for purposes that do not violate State law.

(B) AN ELIGIBLE GUBERNATORIAL TICKET MAY NOT MAKE:

(1) A TRANSFER; OR

(2) AN EXPENDITURE RELATING TO FUNDRAISING ACTIVITY BY ANY OTHER POLITICAL COMMITTEE ORGANIZED UNDER THIS ARTICLE.

[(b)] (C) (1) Any part of a public contribution that is not spent shall be repaid to the Comptroller for redeposit in the Fund not later than 60 days after the election for which the public contribution was made.

(2) In computing whether part of a public contribution is not spent, all private contributions to the gubernatorial ticket shall be treated as spent before the expenditure of any of the public contribution.

[(c)] (D) The members of a gubernatorial ticket and the responsible officers of its campaign finance entity are jointly and severally personally liable for repaying to the Comptroller any part of a public contribution that is not spent or that was spent in violation of subsection (a) of this section.

16-1003.

NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A FINE IMPOSED FOR A CRIMINAL VIOLATION OF THIS ARTICLE SHALL BE DISTRIBUTED TO THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103 OF THIS ARTICLE.

Article – General Provisions

5-405.

(d) If the Ethics Commission determines that a respondent has violated Subtitle 7 of this title, the Ethics Commission may:

(1) require a respondent who is a regulated lobbyist to file any additional reports or information that reasonably relates to information required under §§ 5-703 and 5-704 of this title;

(2) impose a fine not exceeding \$5,000 for each violation; or

(3) subject to subsection (e) of this section, suspend the registration of a regulated lobbyist.

(g) (1) If the respondent is a regulated lobbyist, for each report required under Subtitle 7 of this title that is filed late, the respondent shall pay a fee of \$10 for each late day, not to exceed a total of \$1,000.

(2) If the respondent is an official, for each financial disclosure statement found to have been filed late, the respondent shall pay a fee of \$5 for each late day, not to exceed a total of \$500.

(H) A PENALTY, FINE, OR FEE ASSESSED UNDER THIS SECTION SHALL BE DISTRIBUTED TO THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103 OF THE ELECTION LAW ARTICLE.

5-903.

(a) Except as provided in § 5-716 of this title, a person that knowingly and willfully violates Subtitle 7 of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$10,000 or imprisonment not exceeding 1 year or both.

(b) If the person is not an individual, each officer or partner who knowingly authorizes or participates in a violation of Subtitle 7 of this title is guilty of a misdemeanor and on conviction is subject to the penalty specified in subsection (a) of this section.

(C) A FINE ASSESSED UNDER THIS SECTION SHALL BE DISTRIBUTED TO THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103 OF THE ELECTION LAW ARTICLE.

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Tax – General

2-113.1.

(A) (1) THE COMPTROLLER SHALL INCLUDE ON THE INDIVIDUAL INCOME TAX RETURN FORM A CHECKOFF DESIGNATED AS THE “FAIR CAMPAIGN FINANCING FUND CONTRIBUTION”.

(2) THE CHECKOFF SHALL STATE THAT:

(I) THE INDIVIDUAL, OR EACH SPOUSE IN THE CASE OF A JOINT RETURN, MAY CONTRIBUTE TO THE FAIR CAMPAIGN FINANCING FUND THE AMOUNT DESIGNATED BY THE INDIVIDUAL, ~~NOT TO EXCEED \$500~~, IF THE INDIVIDUAL OR EACH SPOUSE IS A UNITED STATES CITIZEN OR ADMITTED FOR PERMANENT LEGAL RESIDENCE IN THE UNITED STATES; AND

(II) 1. THE INDIVIDUAL SHALL DEDUCT THE AMOUNT OF THE CONTRIBUTION FROM ANY REFUND TO WHICH THE INDIVIDUAL IS ENTITLED; OR

2. IF THE INDIVIDUAL IS NOT ENTITLED TO A REFUND ~~OR DOES NOT OWE ANY INCOME TAX~~, THE INDIVIDUAL SHALL ADD THE AMOUNT OF THE CONTRIBUTION TO THE INCOME TAX TO BE PAID, ~~IF ANY~~, WITH THE RETURN.

(3) THE COMPTROLLER SHALL INCLUDE WITH THE INDIVIDUAL INCOME TAX RETURN PACKAGE A DESCRIPTION OF THE PURPOSES FOR WHICH THE FAIR CAMPAIGN FINANCING FUND WAS ESTABLISHED AND THE PURPOSES FOR WHICH THE FUND MAY BE USED.

(B) THE COMPTROLLER SHALL:

(1) COLLECT THE CHECKOFF CONTRIBUTIONS AND ACCOUNT TO THE STATE TREASURER FOR THE MONEY COLLECTED;

(2) FROM THE CONTRIBUTIONS COLLECTED, DISTRIBUTE THE AMOUNT NECESSARY TO ADMINISTER THE CHECKOFF SYSTEM TO AN ADMINISTRATIVE COST ACCOUNT; AND

(3) AFTER THE DISTRIBUTION UNDER ITEM (2) OF THIS SUBSECTION, DISTRIBUTE THE REMAINDER OF THE MONEY COLLECTED UNDER THIS SUBSECTION TO THE FAIR CAMPAIGN FINANCING FUND ESTABLISHED UNDER § 15-103 OF THE ELECTION LAW ARTICLE.

~~SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2015.~~

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2015. Section 2 of this Act shall be applicable to all taxable years beginning after December 31, 2014.

Approved by the Governor, May 12, 2015.