

2020 Regular Session

HOUSE BILL NO. 784

BY REPRESENTATIVE MCCORMICK

CAMPAIGN FINANCE DISCLOS: Provides relative to certain types of contributions and records required to be maintained relative thereto

1 AN ACT

2 To amend and reenact R.S. 18:1491.5(B)(2), 1491.7(B)(5), 1495.3(B)(2), 1495.5(B)(5),
3 1505.2(C)(2), and 1505.3(C), relative to the Campaign Finance Disclosure Act; to
4 provide for the method of reporting certain campaign contributions; to change certain
5 record-keeping requirements; to provide for civil and criminal penalties; and to
6 provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 18:1491.5(B)(2), 1491.7(B)(5), 1495.3(B)(2), 1495.5(B)(5),
9 1505.2(C)(2), and 1505.3(C) are hereby amended and reenacted to read as follows:

10 §1491.5. Maintenance of records; valuation of in-kind contributions and
11 expenditures

12 * * *

13 B.

14 * * *

15 (2) Payments made to purchase raffle tickets, campaign paraphernalia, such
16 as campaign pins, buttons, badges, flags, emblems, hats, shirts, banners, literature,
17 and similar items, other than expenditures made by a political committee for its own
18 paraphernalia, and payments for tickets to testimonials and similar fundraising events
19 are contributions, and records thereof shall be maintained, provided that:

1 (a) In the case of any single transaction involving the sale of raffle tickets or
 2 of items such as campaign pins, buttons, badges, flags, emblems, hats, banners,
 3 literature, and similar material which is for an amount not in excess of twenty-five
 4 dollars and the proceeds of which are received and deposited by a political
 5 committee, no record need be kept by the campaign treasurer for such recipient
 6 committee, except the total amount received and deposited from such sale and the
 7 fact that such amount was received from such sale.

8 (b) No person shall sell or buy raffle tickets or campaign paraphernalia in
 9 successive single transactions for amounts below those for which specific records are
 10 required by this Paragraph as a subterfuge to avoid requirements of this Part that
 11 names and addresses of contributors and dates and amounts of contributions be
 12 recorded, aggregated, and reported. Such transactions shall be considered single
 13 transactions and shall be recorded and reported as provided in this Part. Any person
 14 who violates the provisions of this Section shall be subject to the penalties provided
 15 in R.S. 18:1505.4, R.S. 18:1505.5, and R.S. 18:1505.6.

16 * * *

17 §1491.7. Reports; contents

18 * * *

19 B. Each report required to be in conformity with this Section shall contain
 20 the following information:

21 * * *

22 (5)(a) The gross proceeds received and accepted by the political committee
 23 during the reporting period from the sale of items such as political campaign pins,
 24 buttons, badges, flags, emblems, hats, banners, literature, and similar materials.
 25 Purchases of ~~such~~ campaign items and materials from the committee which are made
 26 by the same person and are of such amount as to be reportable, either singly or in the
 27 aggregate, ~~under as provided in Paragraph (4) hereof of this Subsection,~~ shall be so
 28 reported; however, single transactions to purchase ~~such~~ campaign items or materials
 29 which are ~~for~~ not in excess of twenty-five dollars must be reported only in the report

1 of gross proceeds and shall not be required to be reported as provided in Paragraph
2 (4) of this Subsection.

3 (b) The gross proceeds received and accepted by the political committee
4 during the reporting period from the sale of raffle tickets. Purchases of raffle tickets
5 that are made by the same person and are of such amount as to be reportable, either
6 singly or in the aggregate, as required in Paragraph (4) of this Subsection, shall be
7 so reported; however, single transactions to purchase raffle tickets which are not in
8 excess of twenty-five dollars must be reported only in the report of gross proceeds
9 and shall not be required to be reported as provided in Paragraph (4) of this
10 Subsection.

11 * * *

12 §1495.3. Maintenance of records; valuation of in-kind contributions and
13 expenditures

14 * * *

15 B.

16 * * *

17 (2) Payments made to purchase raffle tickets, campaign paraphernalia, such
18 as campaign pins, buttons, badges, flags, emblems, hats, shirts, banners, literature,
19 and similar items, other than expenditures made by a candidate for his own
20 paraphernalia, and payments for tickets to testimonials and similar fundraising events
21 are contributions, and records thereof shall be maintained, provided that:

22 (a) In the case of any single transaction involving the sale of raffle tickets or
23 of items such as campaign pins, buttons, badges, flags, emblems, hats, banners,
24 literature, and similar material which is for an amount not in excess of twenty-five
25 dollars and the proceeds of which are received and deposited by a candidate, no
26 record need be kept by the campaign treasurer for such recipient candidate, except
27 the total amount received and deposited from such sale and the fact that such amount
28 was received from such sale.

1 (b) No person shall sell or buy raffle tickets or campaign paraphernalia in
 2 successive single transactions for amounts below those for which specific records are
 3 required by this Paragraph as a subterfuge to avoid requirements of this Part that
 4 names and addresses of contributors and dates and amounts of contributions be
 5 recorded, aggregated, and reported. Such transactions shall be considered single
 6 transactions and shall be recorded and reported as provided in this Part. Any person
 7 who violates the provisions of this Section shall be subject to the penalties provided
 8 in R.S. 18:1505.4, R.S. 18:1505.5, and R.S. 18:1505.6.

9 * * *

10 §1495.5. Reports; contents

11 * * *

12 B. Each report required to be in conformity with this Section shall contain
 13 the following information:

14 * * *

15 (5)(a) The gross proceeds received and accepted by the candidate during the
 16 reporting period from the sale of items such as political campaign pins, buttons,
 17 badges, flags, emblems, hats, banners, literature, and similar materials. Purchases
 18 of such campaign items and materials which are made by the same person and which
 19 are of such amount as to be reportable, either singly or in the aggregate, ~~under~~ as
 20 required in Paragraph (4) hereof of this Subsection, shall be so reported; however,
 21 single transactions to purchase ~~such~~ campaign items or materials which are for not
 22 in excess of twenty-five dollars must be reported only in the report of gross proceeds
 23 and shall not be required to be reported as ~~required~~ provided in Paragraph (4) of this
 24 Subsection.

25 (b) The gross proceeds received and accepted by the political committee
 26 during the reporting period from the sale of raffle tickets. Purchases of raffle tickets
 27 that are made by the same person and are of such amount as to be reportable, either
 28 singly or in the aggregate, as provided in Paragraph (4) of this Subsection, shall be
 29 so reported; however, single transactions to purchase raffle tickets which are not in

1 excess of twenty-five dollars must be reported only in the report of gross proceeds
2 and shall not be required to be reported as provided in Paragraph (4) of this
3 Subsection.

4 * * *

5 §1505.2. Contributions; expenditures; certain prohibitions and limitations

6 * * *

7 C.

8 * * *

9 (2) Upon receipt of a cash contribution of one hundred dollars or less, the
10 candidate or committee receiving the contribution shall provide to the contributor a
11 receipt for the exact amount of the contribution; such receipt shall contain the name;
12 and address; ~~and social security number~~ of the contributor, shall be signed by the
13 contributor, and the candidate or committee receiving the contribution shall retain
14 a copy of the receipt. If the contributor refuses to furnish his name; or address; ~~or~~
15 ~~social security number~~ or refuses to sign the receipt, the contribution shall be
16 immediately returned to said contributor. If the contributor is unable to write, he
17 shall affix his mark to the receipt, and the person receiving the contribution shall
18 affix the name of the incapacitated person to the receipt, provided he does so in the
19 presence of a witness who shall also sign his name as witness to the mark. The copy
20 of the receipt retained by the candidate or committee provided for in this Subsection
21 shall be available to the supervisory committee for inspection. The supervisory
22 committee shall promulgate rules and regulations relative to the receipt required by
23 this Subsection.

24 * * *

25 §1505.3. Subterfuge to avoid compliance with Chapter

26 * * *

27 C. As more specifically provided in R.S. 18:1491.5(B)(2)(b) and R.S.
28 18:1495.3(B)(2)(b), no person shall sell or buy raffle tickets or campaign
29 paraphernalia in successive single transactions for amounts below those for which

1 specific records are required as a subterfuge to avoid the requirements of this
 2 Chapter. Any person who violates the provisions of said Paragraphs shall be subject
 3 to the penalties provided in R.S. 18:1505.4, R.S. 18:1505.5, and R.S. 18:1505.6.

4 * * *

5 Section 2.(A) Any changes to campaign finance disclosure forms as a result of the
 6 provisions of this Act shall become effective after February 17, 2021.

7 (B) This Act shall become effective on January 1, 2021.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 784 Reengrossed

2020 Regular Session

McCormick

Abstract: Provides that proceeds from the sale of raffle tickets in single transactions for amounts not in excess of \$25 shall only be required to be reported in the aggregate and removes the requirement for the furnishing of the social security number of a contributor making an allowed cash contribution and removes the requirement that the receipt for the same include the social security number of the contributor.

Present law requires political committees, candidates, and other persons required to file campaign disclosure reports to include the full name and address of each person who has made one or more contributions during the reporting period.

Present law contains an exception for a single transaction involving the sale of items such as campaign pins, buttons, badges, flags, emblems, hats, banners, literature, and similar material which is for an amount not in excess of \$25. Provides that no record needs to be kept except the total amount received and deposited from such sale and the fact that such amount was received from such sale. Present law prohibits any person from selling or buying campaign paraphernalia in successive single transactions for amounts below those for which specific records are required by present law as a subterfuge to avoid requirements of present law that names and addresses of contributors and dates and amounts of contributions be recorded, aggregated, and reported. Present law further provides that any person who sells or buys campaign paraphernalia in successive single transactions for amounts below those for which specific records are required as a subterfuge to avoid the requirements of present law (Campaign Finance Disclosure Act-CFDA) shall be subject to the civil and criminal penalties provided in present law for such violations (R.S. 18:1505.4, 1505.5, and 1505.6).

Present law civil penalties for late filing assessed on persons required to file reports who knowingly fail to file or timely file the report are per day penalties based upon type of person required to report with a set maximum for per day penalties. Further authorizes, after a hearing, the imposition of additional civil penalties up to \$10,000 on any person required to file reports who had not filed the report by the 6th day after they are due or, in the case of other reports, by the 11th day after they are due, with notice to the party who is the subject of the hearing. Additionally provides that any person required to file reports under the CFDA who knowingly and willfully fails to disclose, or knowingly and willfully fails to accurately disclose, any information required to be disclosed may be assessed a civil penalty for each day until such information is disclosed by amendment to the appropriate report.

Defines "knowingly and willfully" as conduct which could have been avoided through the exercise of due diligence. Additionally provides for civil penalties for knowing and willful violation of the CFDA other than late filing and failing to accurately disclose. Present law provides criminal penalties of up to six months in jail or a fine of \$500, or both for knowingly, willfully, and fraudulently failing to timely file, to disclose, or to disclose inaccurately or to engage in a subterfuge to avoid compliance with the CFDA.

Proposed law additionally provides an exception for a single transaction involving the sale of raffle tickets for an amount not in excess of \$25. Further provides that no record need to be kept except the total amount received and deposited from such sale and the fact that such amount was received from such sale. Further prohibits any person from selling or buying raffle tickets in successive single transactions for amounts below those for which specific records are required by proposed law as a subterfuge to avoid requirements of present law that names and addresses of contributors and dates and amounts of contributions be recorded, aggregated, and reported. Proposed law further provides that any person who sells or buys raffle tickets in successive single transactions for amounts below those for which specific records are required as a subterfuge to avoid the requirements of present law (Campaign Finance Disclosure Act) shall be subject to the civil and criminal penalties provided in present law (R.S. 18:1505.4, 1505.5, and 1505.6) for such violations.

Present law prohibits any person from making a cash contribution to a candidate or a committee and prohibits a candidate or committee from receiving a cash contribution in excess of \$100 during any calendar year. Requires any contribution in excess of \$100, other than an in-kind contribution, to be made by an instrument containing the name of the donor and the name of the payee. Further requires that upon receipt of a cash contribution of \$100 or less, the candidate or committee receiving the contribution shall provide to the contributor a receipt for the exact amount of the contribution containing the name, address, and social security number of the contributor and requires the receipt to be signed by the contributor. Further requires the candidate or committee receiving the contribution to retain a copy of the receipt. Present law specifies that if the contributor refuses to furnish his name, address, or social security number or refuses to sign the receipt, the contribution shall be immediately returned to said contributor.

Proposed law removes the requirement for the social security number of the contributor to be provided and for it to be contained on the receipt; otherwise retains present law.

Proposed law provides that any changes to campaign finance disclosure forms as a result of the provisions of proposed law shall become effective after Feb. 17, 2021.

Effective Jan. 1, 2021.

(Amends R.S. 18:1491.5(B)(2), 1491.7(B)(5), 1495.3(B)(2), 1495.5(B)(5), 1505.2(C)(2), and 1505.3(C))