

ATTORNEY GENERAL PERSONAL USE EXPLANATION

CHAPTER 268

An Act to amend and reenact § 24.2-946 of the Code of Virginia, relating to the Campaign Finance Disclosure Act; materials to be provided by State Board of Elections and Attorney General.

[H 125]

Approved April 8, 2010

Be it enacted by the General Assembly of Virginia:

1. That § 24.2-946 of the Code of Virginia is amended and reenacted as follows:

§ 24.2-946. Summary of election laws; forms; instructions.

A. The State Board shall summarize the provisions of the election laws relating to the Campaign Finance Disclosure Act of 2006 and provide for distribution of this summary and prescribed forms to each candidate, person, or committee on request or upon their first filing with the State Board pursuant to this chapter, whichever occurs first.

B. The Board shall designate the forms required for complying with this chapter which shall be the only such forms used in complying with the provisions of this chapter.

C. The Board shall provide, with the summary required by this section, instructions for persons filing reports pursuant to this chapter to assist them in completing the reports. The instructions shall include directions for the reporting of filing fees for any party nomination method.

D. The Board shall provide instructions for candidates who seek election for successive terms in the same office for the filing of reports within each appropriate election cycle for the office and for the aggregation of contributions within each election cycle.

E. The Board shall provide, with the summary required by this section, to each candidate, person, or committee on request or upon their first filing with the State Board pursuant to this chapter, whichever occurs first, a copy of a written explanation prepared by the Attorney General of the provisions of the Act that prohibit the personal use of campaign funds. The explanation shall cover the provisions that prohibit the personal use of campaign funds and shall delineate the differences between prohibited personal uses of campaign funds and permitted uses of the funds.

Written Explanation by the Attorney General

For the purposes of reporting campaign finances, the laws of the Commonwealth of Virginia require disclosure on the campaign finance disclosure report form of all contributions and expenditures. Chapter 9.3 of Title 24.2 of the Code of Virginia is the Virginia Campaign Finance Disclosure Act of 2006 (“Act”). The Act constitutes “the exclusive and entire campaign finance disclosure law of the Commonwealth.” § 24.2-945(B). Article 3 of Chapter 9.3, §§ 24.2-947 through 24.2-949.9, governs candidates and their campaign committees. Section 24.2-948.4 of Article 3 governs the requirements for filing a final campaign finance report and the disbursement of surplus funds in a candidate campaign committee’s account. In § 24.2-948.4(D), the General Assembly unambiguously provides that surplus funds “may be disposed of *only* by one or any combination” of certain conditions:

1. A transfer of the excess to use in a succeeding election or to retire a preceding election deficit;
2. A return of the excess to a contributor, which may not exceed the contributor’s original contribution;
3. A donation to any § 170(c) organization;
4. A contribution to one or more candidates or to any political committee meeting the requirements of Chapter 9.3;
5. A contribution to any political party committee; and
6. To defray any ordinary, nonreimbursed expense related to his elective office.

Immediately following these listed conditions for the disposal of excess campaign funds by a candidate, the General Assembly specifically prohibits a candidate from converting “any contributed moneys, securities, or like intangible personal property to his personal use or to a member of the candidate’s „immediate family“ as that term is defined in § 30-101.” The General Assembly has clearly prohibited the personal use of campaign contributions by candidates, but only in the context of the filing of the required final campaign finance report.

The permitted uses of campaign funds are found in § 24.2-945.1(A), where the General Assembly defines the term “expenditure” to mean money and services of any amount, and any other thing of value, **paid, loaned, provided, or in any other way disbursed** by any candidate, campaign committee, political committee, or person **for the purpose of expressly advocating the election or defeat of a clearly identified candidate**. The candidate or his treasurer must keep detailed and accurate accounts of all expenditures, and report every contribution and expenditure on the candidate campaign finance disclosure form.