

MICHIGAN CAMPAIGN FINANCE ACT (EXCERPT)
Act 388 of 1976

***** 169.255.amended THIS AMENDED SECTION IS EFFECTIVE FEBRUARY 13, 2024 *****

169.255.amended Segregated fund for political purposes; establishment by connected organization; limitations; solicitation of contributions; prohibited practices; contribution to separate segregated fund; disproportionate in-kind contributions for prizes; violation; penalty; exception; definitions.

Sec. 55. (1) A connected organization may make an expenditure for the establishment or administration of, and solicitation, collection, or transfer of contributions to, a separate segregated fund to be used for political purposes. A connected organization may also pay actual costs related to mailing or shipping of an item or prize purchased under subsection (8). A separate segregated fund established by a connected organization under this section must be organized as a political committee or an independent committee, and, in addition to any other disbursements not restricted or prohibited by law, must only make contributions to, and expenditures on behalf of, candidate committees, ballot question committees, political party committees, political committees, independent expenditure committees, independent committees, and other separate segregated funds.

(2) Contributions for a separate segregated fund established by a corporation, organized on a for profit basis, or a joint stock company under this section may be solicited from any of the following persons or their spouses:

(a) Stockholders of the corporation or company.

(b) Officers and directors of the corporation or company.

(c) Employees of the corporation or company who have policy making, managerial, professional, supervisory, or administrative nonclerical responsibilities.

(3) Contributions for a separate segregated fund established under this section by a corporation organized on a nonprofit basis may be solicited from any of the following persons or their spouses:

(a) Members of the corporation who are individuals.

(b) Stockholders or members of members of the corporation.

(c) Officers or directors of members of the corporation.

(d) Employees of the members of the corporation who have policy making, managerial, professional, supervisory, or administrative nonclerical responsibilities.

(e) Employees of the corporation who have policy making, managerial, professional, supervisory, or administrative nonclerical responsibilities.

(4) Contributions for a separate segregated fund established under this section by a labor organization may be solicited from any of the following persons or their spouses:

(a) Members of the labor organization who are individuals.

(b) Officers or directors of the labor organization.

(c) Employees of the labor organization who have policy making, managerial, professional, supervisory, or administrative nonclerical responsibilities.

(5) Contributions for a separate segregated fund established under this section by a domestic dependent sovereign may be solicited from an individual who is a member of any domestic dependent sovereign.

(6) Contributions must not be obtained for a separate segregated fund established under this section by use of coercion or physical force, by making a contribution a condition of employment or membership, or by using or threatening to use job discrimination or financial reprisals. A connected organization may solicit or obtain contributions for a separate segregated fund established under this section from an individual described in subsection (2), (3), (4), or (5) on an automatic basis, including, but not limited to, a payroll deduction plan, only if the individual who is contributing to the fund affirmatively consents to the contribution. Affirmative consent does not expire until revoked by the individual who provided the affirmative consent.

(7) A contribution by an individual to a separate segregated fund may be collected by or made payable first to a connected organization of the separate segregated fund, for subsequent transfer to the separate segregated fund if all of the following occur:

(a) For contributions that are aggregated with dues or other payments, the individual making the contribution does either of the following:

(i) Specifically indicates in a record or electronic record that the amount collected, or a specified portion of the total amount if remitted as part of a dues or other payment to the connected organization, is a contribution to the separate segregated fund.

(ii) Fails to return a record or electronic record described in subparagraph (i), but remits payment to the

connected organization in response to a specifically requested amount that includes a solicited contribution, the solicitation for a contribution was clearly distinguishable from any dues or other fees requested as part of the total, and the connected organization maintains a record or electronic record of the solicitation that includes the amount of the solicited contribution and the amount of any dues or other fees charged in conjunction with the solicitation for each contributor.

(b) The connected organization transfers the entire specified amount of any contribution, individually or aggregated with other contributions, for deposit to the separate segregated fund electronically or by written instrument.

(c) The connected organization reports all information required under section 26 for each individual contributor, and a transfer of contributions for deposit to the separate segregated fund by a connected organization described in subsection (12)(a)(ii) must be accompanied by or logically associated with a record or electronic record that sets forth all required information for each individual whose contribution is transferred.

(d) The connected organization and the separate segregated fund have a written policy governing the handling, accounting, and transfer of any contribution under this subsection.

(e) In connection with an investigation or hearing under section 15 regarding any contributions under this subsection, the connected organization voluntarily agrees to make available to the secretary of state any records described in subdivisions (a) to (d) and provides those records at the request of the secretary of state.

(8) In addition to any other expenditures or disbursements allowed under subsection (1), a connected organization may make an in-kind contribution to pay costs for a prize, or 1 or more items to be sold or offered in exchange for a contribution, as part of fundraising activities for the separate segregated fund. Any in-kind contribution for payment of costs by the connected organization for a prize or per individual item to be sold or offered in exchange for a contribution must not be disproportionately valuable related to the amount raised by that prize or the amount to be raised or contributed per individual item sold or offered. It is not a violation of this subsection if the connected organization makes an in-kind contribution for a payment of costs under this subsection that is disproportionately valuable and the separate segregated fund reimburses at least the impermissible portion to the connected organization within 60 days of the payment, or as directed by the secretary of state under section 15. An in-kind contribution for a payment of costs under this subsection is disproportionately valuable unless both of the following apply:

(a) The in-kind contribution is equal to or less than \$5.00 per prize or per individual item to be sold or offered in exchange for a contribution.

(b) The in-kind contribution is equal to or less than 10% of the total amount raised by the prize, or if the payment of costs per item sold or offered in exchange for a contribution is equal to or less than 10% of the amount to be raised per individual item sold or offered.

(9) Except as otherwise provided in subsections (8) and (11), a person that knowingly violates this section is guilty of a felony punishable, if the person is an individual, by imprisonment for not more than 3 years or a fine of not more than \$5,000.00, or both, or, if the person is not an individual, by a fine of not more than \$10,000.00.

(10) If a connected organization that obtains contributions for a separate segregated fund from individuals described in subsection (2), (3), (4), or (5) pays to 1 or more of those individuals a bonus or other remuneration for the purpose of reimbursing those contributions, then that connected organization is subject to a civil fine of not more than 2 times the total contributions obtained from all individuals for the separate segregated fund during that calendar year.

(11) If a violation of this section results solely from the failure of a connected organization to transfer 1 or more contributions, that connected organization is not guilty of a felony as described in subsection (9), but shall notify the contributor of the failure to transfer the contribution and refund the full amount of the contribution to the contributor if requested. The penalties described in subsection (9) apply to any other violation of this section, including use or diversion of any contributions by a connected organization before those contributions are transferred to the separate segregated fund under subsection (7).

(12) As used in this section:

(a) "Connected organization" means either of the following:

(i) A corporation organized on a for-profit or nonprofit basis, a joint stock company, a domestic dependent sovereign, or a labor organization formed under the laws of this or another state or foreign country.

(ii) A member of any entity under subparagraph (i) that is not an individual and that does not maintain its own separate segregated fund, unless its separate segregated fund and the separate segregated fund of the entity of which it is a member are treated as a single independent committee as provided in section 52(10).

(b) "Record" and "electronic record" mean those terms as defined in section 2 of the uniform electronic transactions act, 2000 PA 305, MCL 450.832.

(c) "Written instrument" means a money order, or a check, cashier's check, or other negotiable instrument, as those terms are defined in section 3104 of the uniform commercial code, 1962 PA 174, MCL 440.3104, in the name of the connected organization and payable to the separate segregated fund.

History: 1976, Act 388, Eff. June 1, 1977;—Am. 1994, Act 117, Eff. Apr. 1, 1995;—Am. 1995, Act 264, Eff. Mar. 28, 1996;—Am. 2012, Act 277, Imd. Eff. July 3, 2012;—Am. 2013, Act 252, Imd. Eff. Dec. 27, 2013;—Am. 2015, Act 269, Imd. Eff. Jan. 6, 2016;—Am. 2017, Act 119, Imd. Eff. Sept. 20, 2017;—Am. 2019, Act 93, Imd. Eff. Oct. 10, 2019;—Am. 2023, Act 244, Eff. Feb. 13, 2024.

Compiler's note: Section 2 of Act 264 of 1995 provides:

"If any portion of this amendatory act or the application of this amendatory act to any person or circumstance is found to be invalid by a court, the invalidity does not affect the remaining portions or applications of this amendatory act that can be given effect without the invalid portion or application, if those remaining portions are not determined by the court to be inoperable. To this end, this amendatory act is declared to be severable."