

# HOUSE BILL NO. 4703

June 11, 2019, Introduced by Reps. Afendoulis, LaGrand, Brann, Crawford, Maddock, Mueller, Filler, Huizenga, VanWoerkom, Hornberger, Schroeder, Howell, Wendzel, Hall, Bellino, LaFave, Paquette and Whitsett and referred to the Committee on Elections and Ethics.

A bill to amend 1976 PA 388, entitled  
"Michigan campaign finance act,"  
by amending section 15 (MCL 169.215), as amended by 2015 PA 269.

**THE PEOPLE OF THE STATE OF MICHIGAN ENACT:**

1           Sec. 15. (1) The secretary of state shall do all of the  
2 following:

3           (a) Make available through his or her offices, and furnish to  
4 county clerks, appropriate forms, instructions, and manuals  
5 required by this act.



1 (b) Develop a filing, coding, and cross-indexing system for  
2 the filing of required reports and statements consistent with this  
3 act, and supervise the implementation of the filing systems by the  
4 clerks of the counties.

5 (c) Receive all statements and reports required by this act to  
6 be filed with the secretary of state.

7 (d) Prepare forms, instructions, and manuals required under  
8 this act.

9 (e) Promulgate rules and issue declaratory rulings to  
10 implement this act in accordance with the administrative procedures  
11 act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

12 (f) Upon receipt of a written request and the required filing,  
13 waive payment of a late filing fee if the request for the waiver is  
14 based on good cause and accompanied by adequate documentation. One  
15 or more of the following reasons constitute good cause for a late  
16 filing fee waiver:

17 (i) The incapacitating physical illness, hospitalization,  
18 accident involvement, death, or incapacitation for medical reasons  
19 of ~~a person~~ **an individual** required to file, ~~a person~~ **an individual**  
20 whose participation is essential to the preparation of the  
21 statement or report, or a member of the immediate family of these  
22 ~~persons~~ **individuals**.

23 (ii) Other unique, unintentional factors beyond the filer's  
24 control not stemming from a negligent act or nonaction so that a  
25 reasonably prudent person would excuse the filing on a temporary  
26 basis. These factors include the loss or unavailability of records  
27 due to a fire, flood, theft, or similar reason and difficulties  
28 related to the transmission of the filing to the filing official,  
29 such as exceptionally bad weather or strikes involving



1 transportation systems.

2 (2) ~~A~~ **The secretary of state shall only issue a** declaratory  
3 ruling ~~shall be issued~~ under this section ~~only~~ if the person  
4 requesting the ruling has provided a reasonably complete statement  
5 of facts necessary for the ruling or if the person requesting the  
6 ruling has, with the permission of the secretary of state, supplied  
7 supplemental facts necessary for the ruling. A request for a  
8 declaratory ruling that is submitted to the secretary of state  
9 ~~shall~~ **must** be made available for public inspection within 48 hours  
10 after its receipt. An interested person may submit written comments  
11 regarding the request to the secretary of state within 10 business  
12 days after the date the request is made available to the public.  
13 Within 45 business days after receiving a declaratory ruling  
14 request, the secretary of state shall make a proposed response  
15 available to the public. An interested person may submit written  
16 comments regarding the proposed response to the secretary of state  
17 within 5 business days after the date the proposal is made  
18 available to the public. Except as otherwise provided in this  
19 section, the secretary of state shall issue a declaratory ruling  
20 within 60 business days after a request for a declaratory ruling is  
21 received. If the secretary of state refuses to issue a declaratory  
22 ruling, the secretary of state shall notify the person making the  
23 request of the reasons for the refusal and shall issue an  
24 interpretative statement providing an informational response to the  
25 question presented within the same time limitation applicable to a  
26 declaratory ruling. A declaratory ruling or interpretative  
27 statement issued under this section ~~shall~~ **must** not state a general  
28 rule of law, other than that which is stated in this act, until the  
29 general rule of law is promulgated by the secretary of state as a



1 rule under the administrative procedures act of 1969, 1969 PA 306,  
2 MCL 24.201 to 24.328, or under judicial order.

3 (3) Under extenuating circumstances, the secretary of state  
4 may issue a notice extending for not more than 30 business days the  
5 period during which the secretary of state shall respond to a  
6 request for a declaratory ruling. The secretary of state shall not  
7 issue more than 1 notice of extension for a particular request. A  
8 person requesting a declaratory ruling may waive, in writing, the  
9 time limitations provided by this section.

10 (4) The secretary of state shall make available to the public  
11 an annual summary of the declaratory rulings and interpretative  
12 statements issued by the secretary of state.

13 (5) A person may file with the secretary of state a complaint  
14 that alleges a violation of this act. Within 5 business days after  
15 a complaint that meets the requirements of subsection (6) is filed,  
16 the secretary of state shall give notice to the person against whom  
17 the complaint is filed. The notice ~~shall~~**must** include a copy of the  
18 complaint. Within 15 business days after this notice is mailed, the  
19 person against whom the complaint was filed may submit a response  
20 to the secretary of state. The secretary of state may extend the  
21 period for submitting a response an additional 15 business days for  
22 good cause. The secretary of state shall provide a copy of a  
23 response received to the complainant. Within 10 business days after  
24 the response is mailed, the complainant may submit a rebuttal  
25 statement to the secretary of state. The secretary of state may  
26 extend the period for submitting a rebuttal statement an additional  
27 10 business days for good cause. The secretary of state shall  
28 provide a copy of the rebuttal statement to the person against whom  
29 the complaint was filed.



1 (6) A complaint filed under subsection (5) ~~shall~~**must** satisfy  
2 all of the following requirements:

3 (a) Be signed by the complainant.

4 (b) State the name, address, and telephone number of the  
5 complainant.

6 (c) Include the complainant's certification that, to the best  
7 of the complainant's knowledge, information, and belief, formed  
8 after a reasonable inquiry under the circumstances, each factual  
9 contention of the complaint is supported by evidence. However, if,  
10 after a reasonable inquiry under the circumstances, the complainant  
11 is unable to certify that certain factual contentions are supported  
12 by evidence, the complainant may certify that, to the best of his  
13 or her knowledge, information, or belief, there are grounds to  
14 conclude that those specifically identified factual contentions are  
15 likely to be supported by evidence after a reasonable opportunity  
16 for further inquiry.

17 (7) The secretary of state shall develop a form that satisfies  
18 the requirements of subsection (6) and may be used for the filing  
19 of complaints.

20 (8) A person who files a complaint with a false certificate  
21 under subsection (6)(c) is responsible for a civil violation of  
22 this act. A person may file a complaint under subsection (5)  
23 alleging that another person has filed a complaint with a false  
24 certificate under subsection (6)(c).

25 (9) The secretary of state shall investigate the allegations  
26 under the rules promulgated under this act. If the violation  
27 involves the secretary of state, the immediate family of the  
28 secretary of state, or a campaign or committee with which the  
29 secretary of state is connected, directly or indirectly, the



1 secretary of state shall refer the matter to the attorney general  
2 to determine whether a violation of this act has occurred.

3 (10) No later than 45 business days after receipt of a  
4 rebuttal statement submitted under subsection (5), or if no  
5 response or rebuttal is received under subsection (5), the  
6 secretary of state shall post on the secretary of state's ~~Internet~~  
7 **internet** website whether or not there may be reason to believe that  
8 a violation of this act has occurred. When the secretary of state  
9 determines whether there may be reason to believe that a violation  
10 of this act occurred or did not occur or determines to terminate  
11 its proceedings, the secretary of state shall, within 30 days of  
12 that determination, post on the secretary of state's ~~Internet~~  
13 **internet** website any complaint, response, or rebuttal statement  
14 received under subsection (5) regarding that violation or alleged  
15 violation and any correspondence that is dispositive of that  
16 violation or alleged violation between the secretary of state and  
17 the complainant or the person against whom the complaint was filed.  
18 If the secretary of state determines that there may be reason to  
19 believe that a violation of this act occurred, the secretary of  
20 state shall endeavor to correct the violation or prevent a further  
21 violation by using informal methods such as a conference,  
22 conciliation, or persuasion, and may enter into a conciliation  
23 agreement with the person involved. **If the secretary of state**  
24 **enters into a conciliation agreement with the person involved, any**  
25 **civil fine imposed in the conciliation agreement against the person**  
26 **involved must not be less than 25% of the amount of the improper**  
27 **contribution or expenditure.** Unless violated, a conciliation  
28 agreement is a complete bar to any further civil or criminal action  
29 with respect to matters covered in the conciliation agreement. The



1 secretary of state shall, within 30 days after a conciliation  
2 agreement is signed, post that agreement on the secretary of  
3 state's ~~Internet~~**internet** website. If, after 90 business days, the  
4 secretary of state is unable to correct or prevent further  
5 violation by these informal methods, the secretary of state shall  
6 do either of the following:

7 (a) Refer the matter to the attorney general for the  
8 enforcement of any criminal penalty provided by this act.

9 (b) Commence a hearing as provided in subsection (11) for  
10 enforcement of any civil violation.

11 (11) The secretary of state may commence a hearing to  
12 determine whether a civil violation of this act has occurred. The  
13 hearing ~~shall~~**must** be conducted in accordance with the procedures  
14 set forth in chapter 4 of the administrative procedures act of  
15 1969, 1969 PA 306, MCL 24.271 to ~~24.287.~~**24.288**. If after a hearing  
16 the secretary of state determines that a violation of this act has  
17 occurred, the secretary of state ~~may~~**must** issue an order requiring  
18 the person to pay a civil fine **of not more than triple the amount**  
19 ~~of the improper contribution or expenditure plus not more than~~  
20 ~~\$1,000.00 for each violation.~~**less than 25% of the amount of the**  
21 **improper contribution or expenditure.**

22 (12) A final decision and order issued by the secretary of  
23 state is subject to judicial review as provided by chapter 6 of the  
24 administrative procedures act of 1969, 1969 PA 306, MCL 24.301 to  
25 24.306. The secretary of state shall deposit a civil fine imposed  
26 under this section in the general fund. The secretary of state may  
27 bring an action in circuit court to recover the amount of a civil  
28 fine.

29 (13) When a report or statement is filed under this act, the



1 secretary of state shall review the report or statement and may  
2 investigate an apparent violation of this act under the rules  
3 promulgated under this act. If the secretary of state determines  
4 that there may be reason to believe a violation of this act has  
5 occurred and the procedures prescribed in subsection (10) have been  
6 complied with, the secretary of state may refer the matter to the  
7 attorney general for the enforcement of a criminal penalty provided  
8 by this act, or commence a hearing under subsection (11) to  
9 determine whether a civil violation of this act has occurred.

10 (14) No later than 60 business days after a matter is referred  
11 to the attorney general for enforcement of a criminal penalty, the  
12 attorney general shall determine whether to proceed with  
13 enforcement of that penalty.

14 (15) Unless otherwise specified in this act, a person who  
15 violates a provision of this act is subject to a civil fine of not  
16 more than \$1,000.00 for each violation. A civil fine is in addition  
17 to, but not limited by, a criminal penalty prescribed by this act.

18 (16) In addition to any other sanction provided for by this  
19 act, the secretary of state may require a person who files a  
20 complaint with a false certificate under subsection (6)(c) to do  
21 either or both of the following:

22 (a) Pay to the secretary of state some or all of the expenses  
23 incurred by the secretary of state as a direct result of the filing  
24 of the complaint.

25 (b) Pay to the person against whom the complaint was filed  
26 some or all of the expenses, including, but not limited to,  
27 reasonable attorney fees incurred by that person in proceedings  
28 under this act as a direct result of the filing of the complaint.

29 (17) Except as otherwise provided in section 57, there is no





1 private right of action, either in law or in equity, under this  
2 act. Except as otherwise provided in section 57, the remedies  
3 provided in this act are the exclusive means by which this act may  
4 be enforced and by which any harm resulting from a violation of  
5 this act may be redressed. The criminal penalties provided by this  
6 act may only be enforced by the attorney general and only upon  
7 referral by the secretary of state as provided under subsection  
8 (10) or (13).

9 (18) The secretary of state may waive the filing of a campaign  
10 statement required under section 33, 34, or 35 if the closing date  
11 of the particular campaign statement falls on the same or a later  
12 date as the closing date of the next campaign statement filed by  
13 the same person, or if the period that would be otherwise covered  
14 by the next campaign statement filed by the same person is 10 days  
15 or less.

16 (19) The clerk of each county shall do all of the following:

17 (a) Make available through the county clerk's office the  
18 appropriate forms, instructions, and manuals required by this act.

19 (b) Under the supervision of the secretary of state, implement  
20 the filing, coding, and cross-indexing system prescribed for the  
21 filing of reports and statements required to be filed with the  
22 county clerk's office.

23 (c) Receive all statements and reports required by this act to  
24 be filed with the county clerk's office.

25 (d) Upon written request, waive the payment of a late filing  
26 fee if the request for a waiver is based on good cause as  
27 prescribed in subsection (1) (f).

