



Political Committee Handbook

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Chapter 1 Explanation

The information contained in this publication is intended as a quick reference guide only and is current upon publication. Chapters 97-106, Florida Statutes, the Constitution of the State of Florida, Division of Elections' opinions and rules, Attorney General opinions, county charters, city charters and ordinances, and other sources should be reviewed in their entirety for complete information regarding campaign financing.

All Division forms and publications are available on the Division of Elections' website at <http://elections.myflorida.com>.

Please direct any questions to either your county supervisor of elections or the Florida Department of State, Division of Elections at 850.245.6240. Below you will find some other useful websites:

Florida Division of Elections	http://elections.myflorida.com
Florida Elections Commission	www.fec.state.fl.us
Florida Elected Officials	http://election.dos.state.fl.us/contact-us/contact-elected-officials.shtml
Florida Supervisors of Elections	https://doe.dos.state.fl.us/SOE/supervisor_elections.shtml
Florida Association of City Clerks.....	www.floridaclerks.org
Florida Attorney General	http://myfloridalegal.com
Federal Election Commission.....	www.fec.gov

Chapter 2

The Campaign Financing Act

The Florida Election Code is comprised of Chapters 97-106, Florida Statutes. Chapter 106, Florida Statutes, regulates campaign financing for all candidates, including judicial candidates, political committees, committees of continuous existence, and political parties. ***It does not regulate campaign financing for candidates for federal office or candidates for a political party executive committee.***

The Division of Elections:

- Oversees the interpretation of and provides guidance on the election laws.
- Provides advisory opinions to supervisors of elections, candidates, local officers having election related duties, political parties, political committees, committees of continuous existence, or other persons or organizations engaged in political activity, relating to any provisions or possible violations of Florida election laws with respect to actions such person or entity has taken or proposes to take. (*Section 106.23(2), F.S.*)
- Prescribes rules and regulations to carry out the provisions of Chapter 106, Florida Statutes. (*Section 106.22(9), F.S.*)

NOTE ABOUT ELECTIONEERING COMMUNICATIONS AND ELECTIONEERING COMMUNICATIONS ORGANIZATIONS: A permanent injunction exists against the Secretary of State and members of the Florida Elections Commission, their officers, agents, servants, employees, and attorneys, as well as persons in active concert or participation with them, from enforcing the electioneering communications laws of Chapter 106. *The Broward Coalition of Condominiums, et. al. v. Browning, et. al.*, Case No. 4:08cv445-SPM/WCS, 2009 WL 145792 (N.D. Fla. May 22, 2009). The court found the following provisions unconstitutional: (a) All references to “electioneering communication(s)” in sections 106.011(3), 106.011(4)(a), 106.022(1), 106.04(5), 106.0705(2)(b), 106.071(1), 106.08(7), 106.1437, 106.147(1)(a), and 106.17; and (b) Sections 106.011(1)(b)3, 106.011(4)(b), 106.011(18), 106.011(19), 106.03(1)(b), 106.0703, 106.08(4)(b), 106.08(5)(d), 106.1439, and 106.147(1)(e) in their entirety.

Chapter 3

Offices Up for Election in 2010

Federal Offices

Unites States Senator
Representative in Congress (all districts)

State Offices

Governor and Lieutenant Governor
Attorney General
Chief Financial Officer
Commissioner on Agriculture

Multicounty and District Offices

State Attorney (20th Circuit)
Public Defender (20th Circuit)
State Senator (even-numbered districts)
State Representative (all districts)

County Offices

These vary from county to county, however, most will elect:

Board of County Commissioners
School Board
Other offices depending on county

Information for a particular county can be obtained from the county supervisor of elections.

Judicial Retention (Nonpartisan)

Justice of the Supreme Court (only those whose terms expire January 2011)
Judge, District Court of Appeal (only those whose terms expire January 2011)

Circuit Judges (Nonpartisan)

Only those whose terms expire January 2011

County Court Judges (Nonpartisan)

Only those whose terms expire January 2011

Chapter 4

2010 Dates to Remember

March 2	Legislative Session begins (<i>Article III, Section 3, Fla. Const. – 1st Tuesday after the 1st Monday in March</i>)
April 12	Q1 report due for candidates, political committees, committees of continuous existence, electioneering communications organizations, independent expenditure organizations, and political party executive committees
July 23	F1 report due for candidates, political committees, committees of continuous existence, electioneering communications organizations, and independent expenditure organizations
August 6	F2 report due for candidates, political committees, committees of continuous existence, electioneering communications organizations, and independent expenditure organizations
August 20	F3 report due for candidates, political committees, committees of continuous existence, electioneering communications organizations, independent expenditure organizations, and political party executive committees
August 24	PRIMARY ELECTION (<i>Section 100.061, F.S. – on the Tuesday 10 weeks prior to the general election</i>)
September 17	G1 report due for candidates, political committees, committees of continuous existence, electioneering communications organizations, and independent expenditure organizations
October 1	G2 report due for candidates, political committees, committees of continuous existence, electioneering communications organizations, and independent expenditure organizations
October 15	G3 report due for candidates, political committees, committees of continuous existence, electioneering communications organizations, and independent expenditure organizations
October 29	G4 report due for candidates, political committees, committees of continuous existence, electioneering communications organizations, independent expenditure organizations, and political party executive committees
November 2	GENERAL ELECTION (<i>Section 100.041, F.S. – on the 1st Tuesday after the 1st Monday in November of each even-numbered year</i>)

Chapter 5

Glossary of Terms

Campaign Fund Raiser: Any affair held to raise funds to be used in a campaign for public office. *(Section 106.011(11), F.S.)*

Campaign Treasurer: An individual appointed by a candidate or political committee as provided for in Chapter 106, F.S. *(Section 106.011(9), F.S.)*

Candidate: Any person to whom any one or more of the following applies:

- Any person who seeks to qualify for nomination or election by means of the petitioning process;
- Any person who seeks to qualify for election as a write-in candidate;
- Any person who receives contributions or makes expenditures, or gives his or her consent for any other person to receive contributions or make expenditures, with a view to bringing about his or her nomination or election to, or retention in, public office;
- Any person who appoints a campaign treasurer and designates a primary depository; or
- Any person who files qualification papers and subscribes to a candidate's oath as required by law.

This definition does not include any candidate for a political party executive committee. *(Sections 97.021(4) and 106.011(16), F.S.)*

Contribution: *(See Section 106.011(3), F.S. and Chapter 9, Contributions.)*

Election: Any primary election, special primary election, general election, special election, or municipal election held in this state for the purpose of nominating or electing candidates to public office, choosing delegates to the national nominating conventions of political parties, or submitting an issue to the electors for their approval or rejection. *(Section 106.011(6), F.S.)*

Electioneering Communication: A paid expression in any communications media by means other than the spoken word in direct conversation that: (1) refers to or depicts a clearly identified candidate for office or contains a clear reference indicating that an issue is to be voted on at an election, without expressly advocating the election or defeat of a candidate or the passage or defeat of an issue; (2) for communications referring to or depicting a clearly identified candidate for office, is targeted to the relevant electorate (if 1,000 or more persons in the geographical area the candidate would represent if elected will receive the communication); (3) for communications containing a clear reference indicating that an issue is to be voted on at an election, is published after the issue is designated a ballot position or 120 days before the date of the election on the issue, whichever occurs first. *(Section 106.011(18), F.S.)* **(See Note on page 2.)**

Expenditure: *(See Section 106.011(4), F.S. and Chapter 10, Expenditures.)*

Filing Officer: The person before whom a candidate qualifies, the agency or officer with whom a political committee registers, or the agency by whom a committee of continuous existence is certified. *(Section 106.011(14), F.S.)*

General Election: An election held on the first Tuesday after the first Monday in November in the even-numbered years, for the purpose of filling national, state, county, and district offices and for voting on constitutional amendments not otherwise provided for by law. *(Section 97.021(14), F.S.)*

Independent Expenditure: *(See Section 106.011(5), F.S. and Chapter 10, Expenditures.)*

In-Kind Contribution: In-kind contributions are anything of value made for the purpose of influencing the results of an election except money, personal services provided without compensation by individual volunteers, independent expenditures, as defined in Section 106.011(5), F.S., or endorsements of three or more candidates by political committees or political parties.

Judicial Office: Includes the office of Justice of the Supreme Court, judge of a district court of appeal, judge of a circuit court, and county court judge. A judicial office is a nonpartisan office and a candidate for election or retention thereto is prohibited from campaigning or qualifying for such an office based on party affiliation. *(Section 105.011, F.S.)*

Minor Political Party: Any group which on January 1 preceding a primary election does not have registered as members five percent of the total registered electors of the state. *(Section 97.021(17), F.S.)*

Nominal Value: Having a retail value of \$10 or less. *(Section 97.021(19), F.S.)*

Nonpartisan Office: An office for which a candidate is prohibited from campaigning or qualifying for election or retention in office based on party affiliation. *(Section 97.021(20), F.S.)*

Office Account: A candidate elected to office or a candidate who will be elected to office by virtue of his or her being unopposed may transfer funds from the campaign account to an office account up to limits listed under Section 106.141(5), F.S. This fund must be used only for legitimate expenses in connection with the candidate's public office. *(Section 106.141, F.S.)*

Person: An individual or a corporation, association, firm, partnership, joint venture, joint stock company, club, organization, estate, trust, business trust, syndicate, or other combination of individuals having collective capacity. The term includes a political party, political committee, or committee of continuous existence. *(Section 106.011(8), F.S.)*

Petty Cash: Cash spent in amounts of less than \$100 to be used only for office supplies, transportation expenses, and other necessities by the candidate or political committee. *(Sections 106.07 and 106.12, F.S.)*

Political Advertisement: *(See Section 106.011(17), F.S., and Chapter 15, Political Advertising.)*

Primary Election: An election held preceding the general election for the purpose of nominating a party nominee to be voted for in the general election to fill a national, state, county, or district office. *(Section 97.021(27), F.S.)*

Public Office: Any state, county, municipal, or school or other district office or position which is filled by vote of the electors. *(Section 106.011(10), F.S.)*

Special Election: Called for the purpose of voting on a party nominee to fill a vacancy in the national, state, county, or district office. *(Section 97.021(32), F.S.)*

Special Primary Election: A special nomination election designated by the Governor, called for the purpose of nominating a party nominee to be voted on in a general or special election. *(Section 97.021(33), F.S.)*

Statewide Office: Governor, Cabinet, and Supreme Court Justice.

Unopposed Candidate: A candidate for nomination or election to an office, who, after the last day on which any person, including a write-in candidate, may qualify, is without opposition in the election at which the office is to be filled or who is without such opposition after such date as a result of any primary election or of withdrawal by other candidates seeking the same office. A candidate is not an unopposed candidate if there is a vacancy to be filled under Section 100.111(4), F.S., if there is a legal proceeding pending regarding the right to a ballot position for the office sought by the candidate, or if the candidate is seeking retention as a justice or judge. (*Section 106.011(15), F.S.*)

Chapter 6

What is a Political Committee?

A political committee means:

1. A combination of two or more individuals, or a person other than an individual, that, in an aggregate amount in excess of \$500 during a single calendar year:
 - a. Accepts contributions for the purpose of making contributions to any candidate, political committee, committee of continuous existence, or political party;
 - b. Accepts contributions for the purpose of expressly advocating the election or defeat of a candidate or issue;
 - c. Makes expenditures that expressly advocate the election or defeat of a candidate or issue; or
 - d. Makes contributions to a common fund, other than a joint checking account between spouses, from which contributions are made to any candidate, political committee, committee of continuous existence, or political party.
2. The sponsor of a proposed constitutional amendment by initiative who intends to seek the signatures of registered electors.

A political committee is **not** an organization whose activities are limited to making expenditures for electioneering communications or accepting contributions for the purpose of making electioneering communications.

Other exceptions to the definition of a political committee are certain corporations or business entities, committees of continuous existence and political parties.

(Section 106.011(1), F.S.)

Comparison of Political Committee, Committee of Continuous Existence And Electioneering Communication Organization

	Political Committee (PC)	Committee of Continuous Existence (CCE)	Electioneering Communication Organization (ECO) (See NOTE on page 2)
Purpose	<p>To support or oppose any candidate, issue*, PC, CCE, ECO, or political party.</p> <p>May make independent expenditures.</p> <p>May make electioneering communications.</p> <p>*A sponsor of a constitutional initiative petition must be a PC. (100.371, F.S.)</p>	<p>To make contributions to candidates, committees, or political parties. (106.04, F.S.)</p> <p>May contribute to PCs supporting or opposing an issue if such contributions do not exceed 25% of its annual income as reported for the previous year. (106.04(5), F.S.)</p> <p>May contribute to an ECO. (DE 06-09)</p> <p>May not make independent expenditures. (DE 04-09)</p> <p>May not make electioneering communications. (106.04(5), F.S.)</p>	<p>Limited to making expenditures for electioneering communications or accepting contributions for the purpose of making electioneering communications. (106.011(19), F.S.)</p> <p>May not "expressly advocate" the election or defeat of a candidate or the passage or defeat of an issue. (106.011(18), F.S.)</p>
Special Organizational Criteria	None.	<p>Must be organized and operated in accordance with a written charter or bylaws that contain procedures for the election of officers and defines membership in the organization. (106.04(1)(a), F.S.)</p> <p>At least 25% of the income, excluding interest, of the organization must come from dues of members. (106.04(1)(b), F.S.)</p>	None
Initial Filings	<p>Statement of Organization (106.03, F.S.)</p> <p>Appointment of Campaign Treasurer and Designation of Campaign Depository (106.021, F.S.)</p> <p>Registered Agent Statement of Appointment (106.022, F.S.)</p>	<p>Application for Certification</p> <p>Charter or Bylaws</p> <p>Dues or assessment schedule</p> <p>Financial statement for preceding 12 months</p> <p>Registered Agent Statement of Appointment (106.04(2), F.S.)</p>	<p>Statement of Organization (106.03, F.S.)</p> <p>Appointment of Campaign Treasurer and Designation of Campaign Depository (106.11(1)(d)3., F.S.)</p> <p>Registered Agent Statement of Appointment (106.022, F.S.)</p>

	Political Committee (PC)	Committee of Continuous Existence (CCE)	Electioneering Communication Organization (ECO) (See NOTE on page 2)
Campaign Accounts	Funds must be deposited in a campaign depository designated “ <i>((Name of Committee) Campaign Account).</i> ” (106.11(1)(b), F.S.)	May use the organization’s checking account.	May use the organization’s checking account.
Limits on Contributions To the Entity	PC supporting or opposing issues only - no limit. PC supporting or opposing one or more candidates - \$500 per election. PC supporting or opposing both candidates and issues - \$500 per election. (106.08, F.S.)	As long as the requirements under “Special Organizational Criteria” are maintained there is no limit.	No monetary limit May not accept a contribution from an organization exempt from taxation other than a political committee, committee of continuous existence, political party, or electioneering communication organization unless the contributing organization has registered as if it were an ECO. (106.08(5)(d), F.S.)
Limits on Contributions By the Entity	PC to a candidate - \$500 per election. PC expenditures in support of or opposition to issues – no limit. PC to a political party – no limit.	CCE to a candidate or PC supporting candidates - \$500 per election. (106.08, F.S.) CCE to an ECO or a political party – no limit. CCE to a PC supporting issues – not to exceed 25% of its annual income as reported on the annual report filed from the previous year. (106.04(5), F.S.)	May not make contributions to candidates. (106.011(19), F.S.)
Restrictions	Funds may be used only for PC activity and only for the purpose of influencing the results of an election.	A CCE must register as a PC in order to directly support or oppose issues. (106.04(5), F.S.) May not make independent expenditures. (DE 04-09) May not make electioneering communications. (106.04(5), F.S.)	Funds may only be used to make electioneering communications. (106.011(19), F.S.) An ECO must register as a PC in order to directly support or oppose issues. May not make independent expenditures.

	Political Committee (PC)	Committee of Continuous Existence (CCE)	Electioneering Communication Organization (ECO) (See NOTE on page 2)
When to File Reports	See <i>Calendar of Reporting Dates</i> on the Division's web site.	See <i>Calendar of Reporting Dates</i> on the Division's web site. Annual report filed in January of each year.	See <i>Calendar of Reporting Dates</i> on the Division's web site. See also section 106.0703 for additional reporting requirements.
Where to File Reports	Division of Elections – if supports or opposes statewide, legislative, or multicounty candidates or issues. Supervisor of Elections – if supports or opposes candidates or issues in a countywide or less than a countywide election, except municipal. Municipal Clerk – if supports or opposes only municipal candidates or issues.	Division of Elections (106.04(4), F.S.)	Division of Elections – if supports or opposes statewide, legislative, or multicounty candidates or issues. Supervisor of Elections – if supports or opposes candidates or issues in a countywide or less than a countywide election, except municipal. Municipal Clerk – if supports or opposes only municipal candidates or issues.

What to File

Form DS-DE 5, Statement of Organization of Political Committee – This form must be filed within ten days after the political committee organizes or within ten days after anticipating the receipt of contributions or the making of expenditures in excess of \$500. If a political committee is organized within ten days of any election, it shall immediately file the statement of organization.

Form DS-DE 5 must include:

1. The name and address of the committee.
2. The names, addresses, and relationships of affiliated or connected organizations.
3. The area, scope or jurisdiction of the committee.
4. The name, address, and position of the custodian of books and accounts.
5. The name, address, and position of other principal officers, including officers and members of the finance committee, if any.
6. The name, addresses, office sought, and party affiliation of each candidate whom the committee is supporting.
7. The name, address, office sought, and party affiliation of any other individual, if any, whom the committee is supporting for nomination or election to any public office.
8. Any issue or issues the organization is supporting or opposing.
9. If the committee is supporting the entire ticket of any party, a statement to that effect and the name of the party.
10. A statement of whether the committee is a continuing one.
11. Plans for the disposition of residual funds which will be made in the event of dissolution.
12. A listing of all banks, safe-deposit boxes, or other depositories used for committee funds.
13. A statement of the reports required to be filed with federal officials, if any, and names, addresses, and positions of such officials.

Any change in information previously submitted in a statement of organization shall be reported to the agency or officer with whom such committee is required to register within ten days following the change.

(Section 106.03(1),(2),(4), F.S.)

Form DS-DE 41, Registered Agent Statement of Appointment – Each political committee shall have and continuously maintain in this state a registered office and a registered agent. The political committee must file Registered Agent Statement of Appointment at the same time the committee files the Statement of Organization of Political Committee. A political committee may change the registered agent appointment by filing Form DS-DE 41 indicating it is a “change of appointment.” A registered agent may also resign his or her appointment by filing a written statement of resignation with the filing officer. A political committee without a registered agent may not make expenditures or accept contributions until Form DS-DE 41 has been filed with the filing officer.

(Section 106.022, F.S.)

Form DS-DE 6, Appointment of Campaign Treasurer and Designation of Campaign Depository for Political Committees – This form must accompany the Statement of Organization and is effective when the campaign treasurer signs it and it is filed with the filing officer. (This appointment is not considered “filed” upon mailing.)

A political committee must have one campaign treasurer and may appoint up to three deputy treasurers. Deputy campaign treasurers are appointed in the same manner as the campaign treasurer by filing Form DS-DE 6 with the filing officer.

(Section 106.021, F.S.)

Where to File

Division of Elections Political committees supporting or opposing statewide, legislative, multicounty candidates and/or issues

Supervisor of Elections Political committees supporting or opposing countywide or less than county candidates and/or issues (except municipal)

Municipal Clerk Political committees supporting or opposing only municipal candidates and/or issues

Any political committee which would be required to file in two or more locations by reasons of the committee’s intention to support or oppose candidates or issues at state or multicounty and local levels need only file with the Division of Elections.

(Sections 106.03 and 106.011(1)(b)3., F.S.)

Disbandment or Revocation

Any committee, which after having filed one or more statements of organization, disbands or determines it will no longer receive contributions or make expenditures during the calendar year in an aggregate amount exceeding \$500 shall notify the filing officer.

The filing officer shall revoke the registration of a political committee when:

1. The committee fails to maintain a registered office and a registered agent;
2. The committee fails to file the appointment of a successor within 10 days after the death, resignation or removal of its campaign treasurer;
3. The committee fails to file the appointment of successor within 10 days after the death, resignation or removal of its chairperson;
4. The committee fails to file campaign treasurer’s reports for more than 6 months;
5. The committee’s aggregate reported financial activity during a calendar year is less than \$500 unless the committee is only registered and required to report as the sponsor of a proposed constitutional amendment by initiative who intended to seek the signatures of registered voters.

(Section 106.03(5),(7), F.S., and Rule 1S-2.021, F.A.C.)

Chapter 7

Campaign Treasurer

Duties and Responsibilities of Campaign Treasurers

The campaign treasurer:

1. Shall keep detailed accounts of all contributions received and all expenditures made by or on behalf of the political committee. Such accounts must be kept current within not more than two days after the date a contribution is received or an expenditure is made;
2. Shall keep detailed accounts of all deposits made in any separate interest-bearing account or certificate of deposit and all withdrawals made from these accounts to the primary depository and all interest earned;
3. Shall preserve all accounts for at least two years after the date of the election to which the accounts refer;
4. Shall file regular reports of all contributions received and expenditures made, by or on behalf of such political committee; and
5. May be fined \$1,000 or more or be subjected to criminal penalties for failing to file a campaign report or filing an incomplete or inaccurate report.

Deputy campaign treasurers may exercise any of the powers and duties of the campaign treasurer when specifically authorized to do so by the campaign treasurer and chairperson.

Accounts, including separate interest-bearing accounts and certificates of deposit, kept by the campaign treasurer of the political committee may be inspected under reasonable circumstances before, during, or after the election to which the accounts refer by any authorized representative of the Division of Elections or the Florida Elections Commission.

(Sections 106.021, 106.06, 106.07, 106.19 and 106.265, F.S.)

Resignation or Removal of Campaign Treasurers

IMPORTANT: When a campaign treasurer resigns or is removed by the political committee, a copy of the letter of resignation or removal must be filed with the filing officer.

A campaign treasurer or deputy treasurer can **resign** by:

1. Submitting his or her resignation to the committee in writing; and,
2. Filing a copy with the filing officer. **The resignation is not effective until a copy of the written resignation is filed with the filing officer.**

A political committee may **remove** the campaign treasurer or deputy treasurer by:

1. Giving written notice to the campaign treasurer or deputy treasurer; and,

2. Filing a copy with the filing officer. **The removal is not effective until a copy of the written notice is filed with the filing officer.**

In the case of death, resignation or removal of a campaign treasurer or deputy treasurer, the political committee shall appoint a successor by certifying the name and address to the filing officer on Form DS-DE 6, Appointment of Campaign Treasurer and Designation of Campaign Depository for Political Committees.

(Section 106.021(2), F.S.)

Chapter 8

Campaign Depository

Primary Campaign Depository

A political committee shall designate a primary campaign depository with any bank, savings and loan association, or credit union authorized to do business in the state of Florida. A political committee that deposits all contributions in a national depository is not required to designate a depository in Florida. All contributions must be deposited into such account and all expenditures must be drawn by a check on such account. A political committee must file the name and address of the primary campaign depository with the same officer with whom the political committee registers on Form DS-DE 6, Appointment of Campaign Treasurer and Designation of Campaign Depository for Political Committees.

The campaign account must be separate from any personal or other account and used only for depositing campaign contributions and making expenditures.

All funds received by the campaign treasurer shall, **prior to the end of the fifth business day** following the receipt thereof, Saturdays, Sundays, and legal holidays excluded, be deposited in a campaign depository designated pursuant to Section 106.021, F.S., in an account designated “*(Name of Committee) Campaign Account.*”

IMPORTANT: Except for contributions to political committees made by payroll deduction, all deposits must be accompanied by a bank deposit slip containing the name of each contributor and the amount contributed by each.

(Sections 106.021(1) and 106.05, F.S.)

Secondary Campaign Depository

A political committee may designate one secondary depository in each county where an election is held in which the committee participates for the sole purpose of depositing contributions for transfer into the primary depository.

A political committee must file the name and address of each secondary campaign depository with the same officer with whom the committee files the name of his or her campaign treasurer on Form DS-DE 6.

If a contribution is deposited in a secondary depository, the depository shall forward the full amount of the deposit, along with a copy of the deposit slip, to the primary depository prior to the end of the first business day following the deposit.

(Section 106.021(1), F.S.)

Separate Interest-Bearing Accounts and Certificates of Deposit

In the event funds are available in the primary campaign depository that are not currently needed for the disbursement of expenditures, the campaign treasurer or deputy campaign treasurer may deposit such funds into a separate interest-bearing account designated as “*(Name of Committee) Separate Interest-Bearing Campaign Account*” or may purchase a certificate of deposit with the available funds.

Any bank, savings and loan association or credit union authorized to transact business in Florida may be used for this purpose. The separate interest-bearing account or certificate of deposit shall be separate from any personal or other account or certificate of deposit.

Any withdrawal from a separate interest-bearing account or certificate of deposit of the principal or earned interest or any part thereof shall be made only for the purpose of transferring funds to the primary campaign account.

(Sections 106.021(1) and 106.05, F.S.)

Campaign Checks

IMPORTANT: When issuing checks from the campaign account, the campaign treasurer or deputy treasurer shall be responsible for the completeness and accuracy of the information on such check and for insuring that such expenditure is an authorized expenditure.

Campaign checks must contain the following information:

1. The statement “*Campaign Account of (Name of Committee);*”
2. Account number and name of bank;
3. The exact amount of the expenditure;
4. The signature of the campaign treasurer or deputy treasurer;
5. The exact purpose of the expenditure; and
6. The name of the payee.

This information may be typed or hand-written on starter checks provided by the bank until printed checks arrive.

Campaign Account of XYZ Political Committee	Date <u>7/2/10</u>	0001
PAY TO THE ORDER OF <u>XYZ Lumber Company</u>		\$ <u>200.00</u>
<u>Two Hundred and 00/100</u>		DOLLARS
BANK OF FLORIDA		
TALLAHASSEE, FL 32323		
FOR <u>Sign materials</u>	<u>Signature of Campaign Treasurer</u>	
012345678 9876543210 0001		

(Section 106.11(1), F.S.)

Debit Cards

A political committee may use a debit card to make campaign expenditures. (See Chapter 10, Expenditures.)

(Section 106.11(2), F.S., and Division of Elections Opinion 00-03)

Credit Cards

Political committees organized to support or oppose any candidate for statewide office or to support or oppose any statewide issue may obtain, and use in making travel-related campaign expenditures, credit cards. *(See Chapter 10, Expenditures.)*

(Section 106.125, F.S.)

Chapter 9 Contributions

A contribution is:

1. A gift, subscription, conveyance, deposit, loan, payment or distribution of money or anything of value made for the purpose of influencing the results of an election or making an electioneering communication. These include contributions in-kind having an attributable monetary value in any form;
2. A transfer of funds between political committees, between committees of continuous existence, between electioneering communication organizations, or any combination of these groups;
3. The payment, by any person other than a candidate or political committee of compensation for the personal services of another person which are rendered to a candidate or political committee without charge to the candidate or political committee for such services; or
4. The transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit. The term includes any interest earned on such account or certificate.

The exceptions are:

1. Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a political committee including, but not limited to, legal and accounting services.
2. Editorial endorsements.

IMPORTANT: The law provides no exceptions for reporting contribution information, regardless of the size of the contribution.

(Sections 106.011(3) and 106.07(8)(a), F.S.)

In-Kind Contributions

In-kind contributions are anything of value made for the purpose of influencing the results of an election.

The exceptions are:

1. Money;
2. Personal services provided without compensation by individual volunteers;
3. Independent expenditures, as defined in Section 106.011(5), F.S.; or
4. Endorsements of three or more candidates by political committees or political parties.

IMPORTANT: Any person who makes an in-kind contribution shall, at the time of making the contribution, place a fair market value on the contribution. In-kind contributions are subject to contribution limitations. Travel conveyed upon private aircraft shall be valued at the actual cost of per person commercial air travel for the same or a substantially similar route.

(Sections 106.011, 106.02 and 106.055, F.S.; Division of Elections Opinion 09-08 (Aircraft Travel))

Loans

Loans are considered contributions and are subject to contribution limitations. Loans to or from each person or political committee must be reported together with names, addresses, occupations and principal places of business, if any, of the lenders and endorsers, including the date and amount of each loan on the campaign treasurer's report.

(Sections 106.011, 106.07 and 106.075, F.S.)

Cash Contributions

A person may not make or accept contributions in cash or by means of a cashier's check in excess of \$50.

IMPORTANT: Cash contributions should be reported on campaign treasurer's reports to include full name and address of each person who gave a cash contribution during the reporting period, together with the amount and date of such cash contribution.

(Sections 106.07(4) and 106.09, F.S.)

Debit and Credit Card Contributions

A candidate, political committee or political party may accept contributions via a credit card, debit card, or money order. These contributions are categorized as a "check" for reporting purposes.

(Section 106.11(2), F.S., and Division of Elections Opinion 00-03)

Contributions via Online Payment Service Organizations

A candidate, political committee or political party may use an online payment service organization, such as PayPal, to receive campaign contributions. The contribution would be reported as a check in the entire amount and the transactional fee would then be reported as an expenditure.

(Division of Elections Opinion 08-07)

Contribution Limits

Political committees that make contributions to candidates may not accept contributions in excess of \$500 per election from any one person. There is no limit to the amount one person may give to a political committee supporting or opposing only issues. If the political committee is supporting or opposing both candidates and issues, the limit is \$500 per election from any one person.

A political committee may **not**:

1. Accept a contribution in excess of \$500 from any one person per election if the political committee is supporting or opposing candidates.
2. Accept more than \$100 per election from an unemancipated child under the age of 18.

(Sections 106.08, 106.011(1) and 106.19, F.S.)

2010 Deadlines for Accepting Contributions

Any contribution received by the chairperson, campaign treasurer, or deputy campaign treasurer of a political committee supporting or opposing a candidate with opposition in an election or supporting or opposing an issue on the ballot in an election on the day of that election or less than five days prior to the day of that election may not be obligated or expended by the committee until after the date of the election.

The deadline for accepting a contribution for use in the 2010 primary election is August 19, 2010.

The deadline for accepting a contribution for use in the 2010 general election is October 28, 2010.

2010 Deadlines for Making Contributions to Candidates

The primary and general elections are considered separate elections for contribution purposes; therefore:

If opposed in the primary election, the candidate may accept:

- \$500 no later than midnight on **August 19, 2010**

If opposed in the primary and general elections, the candidate may accept:

- \$500 no later than midnight on **August 19, 2010**
- \$500 between August 25 and midnight on **October 28, 2010**

If opposed in the general election only, the candidate may accept:

- \$500 up through the day of the primary election on **August 24, 2010**
- \$500 between August 25 and midnight on **October 28, 2010**

Justice of the Supreme Court or Judge, District Court of Appeal (considered an opposed candidate but only has one election, the general election) may accept:

- \$500 no later than midnight on **October 28, 2010** (contributions may be accepted during the primary election, but must be applied toward the general election limitation).

Circuit Judge or County Court Judge candidates (have two elections, the primary and general elections) may accept:

If opposed in the primary election only:

- \$500 no later than midnight on **August 19, 2010**

If opposed in the primary and general elections:

- \$500 no later than midnight on **August 19, 2010**
- \$500 between August 25, 2008 and midnight on **October 28, 2010**

Violations

Any committee chairperson, vice chairperson, campaign treasurer, deputy treasurer, or other officer of any political committee; agent or person acting on behalf of any political committee; or other person who knowingly and willfully:

1. Accepts a contribution in excess of the limits prescribed by Section 106.08, F.S.;
2. Fails to report any contribution required to be reported by this chapter;
3. Falsely reports or deliberately fails to include any information required by this chapter; or
4. Makes or authorizes any expenditure in violation of Chapter 106, F.S.;

is guilty of a misdemeanor of the first degree, punishable as provided in Section 775.082 or Section 775.083.

(Section 106.19, F.S.)

Chapter 10

Expenditures

An expenditure is a purchase, payment, distribution, loan, advance, transfer of funds by a campaign treasurer or deputy campaign treasurer between a primary depository and a separate interest-bearing account or certificate of deposit, or gift of money or anything of value made for the purpose of influencing the results of an election or making an electioneering communication. **(See Note on page 2)**

An expenditure for an electioneering communication is made when the earliest of the following occurs:

1. A person executes a contract for applicable goods or services;
2. A person makes payment, in whole or in part, for applicable goods or services; or
3. The electioneering communication is publicly disseminated.

General Requirements

A political committee **shall**:

1. Pay all campaign expenditures by a check drawn on the campaign account (except petty cash);
2. Pay for all expenses authorized or incurred for the purchase of goods or services upon final delivery and acceptance of the goods or services; and
3. Pay for public utilities such as telephone, electric, gas, water and like services when the bill is received. Utility companies providing services to political committees must charge a deposit sufficient to meet all anticipated charges during a billing period.

IMPORTANT: *No campaign manager, treasurer, deputy treasurer, or political committee or any officer or agent thereof, or any person acting on behalf of any of the foregoing, shall authorize any expenses, unless there are sufficient funds on deposit in the primary depository account of the political committee to pay the full amount of the authorized expense, to honor all other checks drawn on such account, which checks are outstanding, and to meet all expenses previously authorized but not yet paid.*

Sufficient funds means that the funds at issue have been delivered for deposit to the financial institution at which such account is maintained and not that such funds are available for withdrawal in accordance with the deposit rules or the funds availability policies of such financial institution.

Any contribution received by the chairperson, campaign treasurer or deputy treasurer of a political committee supporting or opposing a candidate with opposition in an election or supporting or opposing an issue on the ballot in an election on the day of that election or less than five days prior to the day of that election may not be obligated or expended by the committee until after the date of that election.

(Sections 106.011(4), 106.021(3)) and 106.11(4), F.S.)

Checks

IMPORTANT: *Only a campaign treasurer or deputy campaign treasurer is allowed to sign checks drawn on the campaign account. The campaign treasurer or deputy campaign treasurer who signs a check shall be responsible for the completeness and accuracy of the information on the check and for ensuring it is an authorized expenditure.*

Petty Cash Funds

A campaign treasurer may provide a petty cash fund for the political committee. To establish a petty cash fund, the campaign treasurer must write a check drawn on the primary campaign account.

A political committee **must**:

1. Spend petty cash in amounts of less than \$100 and petty cash may only be used for office supplies, transportation expenses, and other necessities;
2. Report the total amount withdrawn and the total amount spent for petty cash in each reporting period;
3. Keep complete records of petty cash, although each expenditure does not have to be reported individually;
4. Not mix cash contributions with petty cash; and
5. Not use petty cash for the purchase of time, space or services from any communications media.

From the day a political committee appoints its campaign treasurer until the close of qualifying for office, the campaign treasurer may withdraw from the campaign account for the purpose of providing a petty cash fund for the political committee \$500 per calendar quarter.

After qualifying is over and until the last election in a given election period in which the political committee participates, the treasurer may withdraw \$100 per week.

(Sections 106.07 and 106.12, F.S., and Division of Elections Opinion 06-10)

Independent Expenditures

An independent expenditure means an expenditure made by a person for the purpose of **expressly advocating** the election or defeat of a candidate or the approval or rejection of an issue, which expenditure is not controlled by, coordinated with, or made upon consultation with, any candidate, political committee, or agent of such candidate or committee.

Political advertisements paid for by an independent expenditure must prominently state:

“Paid political advertisement paid for by (name and address of person or committee paying for the advertisement) independently of any (candidate or committee).”

The exceptions are:

1. Campaign messages designed to be worn by a person and used by a candidate and his or her supporters.
2. Novelty items having a retail value of \$10 or less which support, but do not oppose, a candidate or issue.

Persons making independent expenditures for political advertisements must provide a written statement that no candidate has approved the advertisement to the newspaper, radio station, television station, or other medium for each such advertisement submitted for publication, display, broadcast, or other distribution.

However, an expenditure for the purpose of **expressly advocating** the election or defeat of a candidate which is made by the national, state, or county executive committee of a political party, including any subordinate committee of a national, state, or county committee of a political party, or by any political committee or committee of continuous existence, or any other person, **shall not be considered an independent expenditure if the committee or person:**

1. Communicates with the candidate, the candidate's campaign, or an agent of the candidate acting on behalf of the candidate, including any pollster, media consultant, advertising agency, vendor, advisor, or staff member concerning the preparation of, use of, or payment for, the specific expenditure or advertising campaign at issue; or
2. Makes a payment in cooperation, consultation, or concert with, at the request or suggestion of, or pursuant to any general or particular understanding with the candidate, the candidate's campaign, a political committee supporting the candidate, or an agent of the candidate relating to the specific expenditure or advertising campaign at issue; or
3. Makes a payment for the dissemination, distribution, or republication, in whole or in part, of any broadcast or any written, graphic, or other form of campaign material prepared by the candidate, the candidate's campaign, or an agent of the candidate, including any pollster, media consultant, advertising agency, vendor, advisor, or staff member; or
4. Makes a payment based on information about the candidate's plans, projects, or needs communicated to a member of the committee or person by the candidate or any agent of the candidate, provided the committee or person uses the information in any way, in whole or in part, either directly or indirectly, to design, prepare, or pay for the specific expenditure or advertising campaign at issue; or
5. After the last day of qualifying for statewide or legislative office, there is a consultation about the candidate's plans, projects, or needs in connection with the candidate's pursuit of election to office and the information is used in any way to plan, create, design, or prepare an independent expenditure or advertising campaign, with:
 - a. Any officer, director, employee or agent of a national, state or county executive committee of a political party that has made or intends to make expenditures in connection with or contributions to the candidate; or
 - b. Any person whose professional services have been retained by a national, state or county executive committee of a political party that has made or intends to make expenditures in connection with or contributions to the candidate; or

6. After the last day of qualifying for statewide or legislative office, retains the professional services of any person also providing those services to the candidate in connection with the candidate's pursuit of election to office; or
7. Arranges, coordinates, or directs the expenditure, in any way, with the candidate or an agent of the candidate.

(Sections 106.011(5),(18), 106.071 and 106.143, F.S)

Credit Cards

Political committees organized to support or oppose any **statewide office (Governor, Cabinet, and Supreme Court Justice)** or issue may obtain a credit card under the following conditions:

1. The credit card is used in making travel-related campaign expenditures to include transportation, lodging, meals and other travel expenses incurred;
2. The credit card is obtained from the same bank designated as the primary campaign depository;
3. The credit card is in the name of the political committee and the name reflects that it is a campaign account;
4. A copy of the agreement or contract between the political committee and bank, along with a list of all persons authorized to use the credit card, must be filed with the Division of Elections **prior** to being used;
5. The credit card must expire no later than midnight of the last day of the month of the general election; and
6. Each statement received from the issuer of the credit card must be paid upon receipt.

Political committees other than those stated above may not use credit cards.

(Section 106.125, F.S.)

Debit Cards

Debit cards may be used in lieu of campaign checks and are considered bank checks if the following conditions are met:

1. The debit card is obtained from the same bank as the primary campaign depository.
2. The debit card is issued in the name of the treasurer, deputy treasurer or authorized user.
3. The debit card states "*Campaign Account of (Name of Political Committee).*"
4. No more than three debit cards are issued.
5. A list of all persons authorized to use the debit card is filed with the Division of Elections prior to use.

6. The debit card expires no later than midnight of the last day of the month of the general election.
7. The person using the debit card does not receive cash as any part of, or independent of, any transaction for goods or services.

All debit card receipts must contain:

1. Last four digits of the debit card number.
2. Exact amount of expenditure.
3. Name of payee.
4. Signature of campaign treasurer, deputy treasurer or authorized user.
5. Exact purpose of expenditure.

Any of the above listed information, if not included on the receipt, may be handwritten on, or attached to, the receipt by the authorized user before submitting to the campaign treasurer. The debit card user shall be responsible for the completeness and accuracy of the information and for insuring that such expenditure is authorized.

(Section 106.11, F.S.)

Chapter 11

Recordkeeping, Receipt and Inspection

Bookkeeping

The Division of Elections has a few suggestions which may be helpful to campaign treasurers in setting up a system to record and maintain campaign information.

1. Keep a schedule of due dates for campaign treasurer's reports. The Division of Elections website (<http://www.elections.myflorida.com/>) contains a calendar of election and reporting dates.
2. Know what period of time each report covers and only report activity occurring during that reporting period. (See 2010 Calendar of Reporting Dates)
3. If filing with the Division of Elections, keep a copy of the electronic receipt for each report filed for your own records. If filing with the local officers, who do not have electronic filing, keep the certificate of mailing.
4. Record all contributions when received. Make sure to include the name, address, specific occupation, or principal type of business if over \$100, of the contributor, and the amount and date of each contribution. Keep contributions itemized by monetary, in-kind and loans.
5. Record all expenditures when they occur. List the name and address of each person to whom the expenditure was made along with the amount, date, and purpose.
6. Keep a petty cash ledger of all expenditures. The individual expenditures do not have to be listed on campaign treasurer's reports. However, you must list the total amount of petty cash withdrawn and total amount spent during the reporting period.
7. Monitor the cash flow to know how much money is available at all times in the account to avoid any possibility of authorizing an expenditure when money is not available to pay for such expenditure.
8. Maintain a listing of all funds currently in the separate interest-bearing account, certificate of deposit, or money market account.
9. Make sure authorization for advertising has been obtained from the candidate.

Contributions

1. The campaign treasurer of each political committee shall keep detailed accounts of all contributions received, current within not more than two days after the date of receiving the contribution. (*Section 106.06, F.S.*)
2. All funds received by the campaign treasurer of any political committee shall be deposited in the campaign depository prior to the end of the fifth business day following receipt (Saturdays, Sundays and legal holidays excluded). (*Section 106.05, F.S.*)

3. All deposits shall be accompanied by a bank deposit slip containing the name of each contributor and the amount contributed by each. (*Section 106.05, F.S.*)
4. The campaign treasurer shall keep detailed accounts of all deposits made in any separate interest-bearing account or certificate of deposit and of all interest earned. (*Section 106.06, F.S.*)
5. Contributions deposited in a secondary campaign depository shall be forwarded to the primary campaign depository prior to the end of the first business day following the deposit. A copy of the deposit slip shall accompany the deposit. (*Section 106.05, F.S.*)

Expenditures

1. The campaign treasurer of each political committee shall keep detailed accounts of all expenditures made, current within not more than two days after the making of the expenditure. (*Section 106.06, F.S.*)
2. Receipts for each credit card purchase shall be retained by the treasurer with the records for the campaign account. The treasurer shall require an accounting of actual expenses and reconcile any overpayment or underpayment to the original payee. (*Sections 106.07 and 106.125, F.S.*)
3. Receipts for debit card transactions must contain: (1) the last four digits of the debit card number; (2) the exact amount of the expenditure; (3) the name of the payee; (4) the signature of the campaign treasurer, deputy treasurer, or authorized user; and (5) the exact purpose for which the expenditure is authorized. Any information required but not included on the debit card transaction receipt may be handwritten on, or attached to, the receipt by the authorized user before submission to the treasurer. (*Section 106.11, F.S.*)
4. The campaign treasurer shall keep detailed accounts of all withdrawals made from any separate interest-bearing account or certificate of deposit to the primary depository and of all interest earned. (*Section 106.06, F.S.*)
5. The campaign depository shall return all checks drawn on the account to the campaign treasurer. The campaign treasurer shall retain the records pursuant to Section 106.06, F.S. (*Section 106.07, F.S.*)

Preservation of Accounts

Accounts kept by the campaign treasurer of a political committee shall be preserved by such treasurer for at least two years after the date of the election to which the accounts refer. (*Section 106.06, F.S.*)

Inspections

1. Accounts kept by the campaign treasurer of a political committee, including separate interest-bearing accounts and certificates of deposit, may be inspected under reasonable circumstances before, during or after the election to which the accounts refer by any authorized representative of the Division of Elections or the Florida Elections Commission. The right of inspection may be enforced by appropriate writ issued by any court of competent jurisdiction. (*Section 106.06, F.S.*)

2. Records maintained by the campaign depository shall be subject to inspection by an agent of the Division of Elections or the Florida Elections Commission at any time during normal banking hours, and such depository shall furnish certified copies of any such records to the Division of Elections or Florida Elections Commission upon request. (*Section 106.07, F.S.*)
3. It is the duty of the Division of Elections to conduct random audits with respect to reports and statements filed under Chapter 106, F.S., and with respect to alleged failure to file any reports and statements required under Chapter 106, F.S.

Chapter 12

Filing Campaign Reports

Each campaign treasurer designated by a political committee shall file regular reports of all contributions received and all expenditures made by or on behalf of such political committee.

The chairperson and campaign treasurer shall certify as to the correctness of each report. Each person so certifying shall bear the responsibility for the accuracy and veracity of each report. Any campaign treasurer or chairperson who willfully certifies the correctness of any report while knowing that such report is incorrect, false or incomplete commits a misdemeanor of the first degree.

(Sections 106.011, 106.04 and 106.07, F.S.)

Where to File

Political Committees: A campaign treasurer is required to file campaign treasurer's reports with the officer with whom the committee registers.

Committees filing reports with the Division of Elections are required to file by means of the **Electronic Filing System** (see Chapter 13, *Electronic Filing of Campaign Reports*). If the committee's filing officer is other than the Division of Elections, contact the appropriate filing officer to find out the requirements.

(Section 106.07(2), F.S.)

If the Florida political committee shares a depository with a **federal political committee**, **all contributions made to the federal political committee and all expenditures made by the federal political committee must be reported in compliance with Section 106.07, F.S.** Such political committees are subject to the contribution limits of Section 106.08, F.S. However, any contribution or expenditure not required to be reported under federal law must be reported to the Florida filing officer in accordance with Chapter 106, F.S. (i.e., Florida law does not allow aggregate reporting of contributions). Specific occupation or principal type of business must be included for all contributions over \$100. Federal political committees registered in Florida as a political committee are subject to the same reporting dates and fine assessments as other political committees.

When to File

Reports must be filed on the 10th day following the end of each calendar quarter (January, April, July and October) from the time the committee or organization registers, except that if the 10th day occurs on a Saturday, Sunday or legal holiday, the report shall be filed on the next business day that is not a Saturday, Sunday or legal holiday.

Following the last day of qualifying, the reports must be filed on the 32nd, 18th and 4th days immediately preceding the primary election and on the 46th, 32nd, 18th and 4th days immediately preceding the general election. (Committees that file with the Division of Elections should refer to the **2010 Calendar of Reporting Dates** for specific dates. Committees registered with a county or city should contact the appropriate filing officer for reporting schedules.)

Unless the electronic filing requirements of Section 106.0705, Florida Statutes, apply, reports shall be filed no later than 5 p.m. of the day designated. A report postmarked by the U.S. Postal Service no later than midnight of the day designated is deemed timely filed. A report received by the filing officer within 5 days after the designated due date that was delivered by the U.S. Postal

Service is deemed timely filed unless it has a postmark indicating the report was mailed after the designated due date. A certificate of mailing obtained from and dated by the U.S. Postal Service at the time of mailing or a receipt from an established courier company, which bears a date on or before the date on which the report is due, is proof of mailing in a timely manner. **Reports filed with the Division of Elections through the Electronic Filing System (EFS) are due no later than midnight, Eastern Time, of the due date.** (See Chapter 13, *Electronic Filing of Campaign Reports*.)

(Sections 106.07, 106.0705 and 106.141, F.S.)

Penalty for Late Filing

Any political committee failing to file a report on the designated due date shall be subject to a fine of \$50 per day for the first three days late and, thereafter, \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report. However, for the reports due **August 20** and **October 29, 2010**, the fine shall be \$500 per day for each late day, not to exceed 25 percent of the total receipts or expenditures, whichever is greater, for the period covered by the late report.

(Section 106.07(8), F.S.)

Waiver of Report

When there has been no activity in the campaign account during a reporting period (no funds expended or received) the filing of the report may be waived by notifying the filing officer in writing that no activity has occurred. This notification must be made on the prescribed reporting date.

(Section 106.07, F.S.)

All waivers filed with the Division of Elections must be filed electronically using the Division's electronic filing system.

(Section 106.0705, F.S.)

Special Election Reports

When a special election is called to fill a vacancy in office, all political committees and committees of continuous existence making contributions or expenditures to influence the results of the special election shall file campaign treasurers' reports with the filing officer on the dates set by the Department of State pursuant to Section 100.111, F.S.

When an election is called for an issue to appear on the ballot at a time when no candidates are scheduled to appear on the ballot, all political committees and committees of continuous existence making contributions or expenditures in support of or in opposition to such issue shall file reports on the 18th and 4th days prior to such election.

Committees are to include on the special election campaign treasurer's reports **all contributions received and all expenditures made by the committee during the special election reporting periods.** All contributions received and expenditures made during the current quarter that occurred before or after the special election campaign treasurer cover periods should be filed on the next quarterly report. Once a committee has participated in the special election and has filed a special election campaign report, all other special election reports remaining must also be filed by the committee, even if there is no further special election activity.

(Section 106.07(1), F.S.)

Incomplete Reports

If a campaign treasurer files a report that is deemed incomplete, he or she will be notified by the filing officer as to why the report is incomplete. The campaign treasurer must file an addendum to the incomplete report within three days of notification. The addendum must include all necessary information to complete the report.

In lieu of a notice by registered mail, the filing officer may notify the campaign treasurer by telephone that the report is incomplete and request the information necessary to complete the report. If such information is not received by the filing officer within three days after the telephone request, notice shall be sent by registered mail.

(Section 106.07(2), F.S.)

Reporting Total Sums

Each campaign treasurer's report required by Chapter 106, F.S., shall contain the total sums of all loans, in-kind contributions, and other receipts, and total sums of all expenditures made during the reporting period. The reporting forms shall be designed to elicit separate totals for in-kind contributions, loans, and other receipts.

(Section 106.07, F.S.)

Reporting Contributions

Each report must contain:

1. Full name, address, **specific** occupation, amount, and date of each person making a contribution. Reports must provide as clear a description as practicable of the principal type of business conducted for corporations contributing. **Occupations or principal type of business are not required if the contribution is \$100 or less.**
2. Name, address, amount, and date of each political committee or organization making any transfer of funds.
3. Full name, address, **specific** occupation, principal place of business of the lender and endorser, date and amount of each loan.
4. Statement of each contribution, rebate, refund or other receipts not listed in 1. through 3. above.

(Section 106.07(4), F.S.)

Contributions to a political committee may be received by an affiliated organization and transferred to the bank account of the political committee via check written from the affiliated organization if such contributions are specifically identified as intended to be contributed to the political committee. All contributions received in this manner shall be reported pursuant to Section 106.07, F.S., by the political committee as having been made by the original contributor.

(Section 106.08(10), F.S.)

Returning Contributions

Contributions **must be returned** to the person or committee contributing it if a committee receives a contribution in excess of the limitations provided by law.

If the contribution to be returned has not been deposited into the campaign account, report the contribution on **Form DS-DE 2, Contributions Returned**.

If the contribution has been deposited into the campaign account:

1. Report the contribution on the itemized contribution report form;
2. Write a check from the campaign account to the contributor for the amount of the contribution and report this on the itemized expenditure report. Under "purpose of expenditure" explain the reason for returning the contribution. The committee may also wish to write the filing officer and explain the error and request that the filing officer place the explanation in the committee's file.

Any contribution received by the chairperson, campaign treasurer, or deputy campaign treasurer of a political committee supporting or opposing a candidate with opposition in an election or supporting or opposing an issue on the ballot in an election on the day of that election or less than five days prior to the day of that election may not be obligated or expended by the committee until after the date of the election.

(Section 106.08, F.S.)

Reporting Expenditures

Each report must contain:

1. Full name and address of each person to whom expenditures have been made, along with the amount, date, and **clear** purpose of the expenditure. Name, address, and office sought by each candidate on whose behalf such expenditure was made.
2. Full name and address of each person to whom an expenditure for personal services, salary, or reimbursed expenses was made, along with the amount, date and clear purpose of the expenditure. (See also **Reporting Other Distributions**)
3. Total amount withdrawn and the total amount spent for petty cash purposes. Each expenditure from the petty cash fund need not be individually reported but complete records of petty cash expenditures must be kept.
4. Amount and nature of debts and obligations owed by or to the committee, which relate to the conduct of any political campaign.
5. The amount and nature of any separate interest-bearing accounts or certificates of deposit. Identification of the financial institution in which such accounts or certificates of deposit are located must be identified.
6. The primary purposes of an expenditure made indirectly through a campaign treasurer for goods and services such as communications media placement or procurement services, campaign signs, insurance and other expenditures that include multiple components as part of the expenditure. The primary purpose of an expenditure shall be that purpose, including integral and directly related components, that comprises 80 percent of such expenditure. (See also **Reporting Other Distributions**)

Reporting Other Distributions

Every distribution should be reported during the coverage period when the distribution actually happened, as is the case with the expenditures and contributions. The related distribution(s) and expenditure can and often do occur in different reports.

Types of distributions:

1. Prepaid
2. Credit card purchases/payments
3. Reimbursements
4. In-kind

Reports must contain:

1. Full name and address of each person to whom payment for reimbursement was made by check drawn upon the campaign account together with the purpose of such payment.
2. Expenditures made indirectly through a treasurer for goods or services, such as communications media placement or procurement services, campaign signs, insurance or other expenditures that include multiple integral components as part of the expenditure.
3. Distribution of goods and services to a candidate, committee or party.

Chapter 13

Electronic Filing of Campaign Reports

The Electronic Filing System (EFS) is an Internet system for recording and reporting campaign finance activity by reporting period. Each political committee required to file reports with the Division of Elections pursuant to Section 106.07, F.S., must file such reports with the Division by means of the EFS.

Reports filed pursuant to this section:

1. Shall be completed and filed through the EFS not later than midnight of the day designated. Reports not filed by midnight of the day designated are late filed and are subject to the penalties under Section 106.07(8), F.S., as applicable.
2. Are considered to be under oath by the chairperson and treasurer, and such persons are subject to provisions of Section 106.07(5), F.S. Persons given a secure sign-on to the EFS are responsible for protecting such from disclosure and are responsible for all filings using such credentials, unless they have notified the Division that their credentials have been compromised.

(Sections 106.0705 and 106.0706, F.S.)

Accessing the EFS

From *Internet Explorer* you can access the EFS at <https://efs.dos.state.fl.us>. Each person filing a report is provided an identification number and initial password to gain entry. Once you log in using the initial password, you will be prompted to change it to a confidential one. You are responsible for protecting the password from disclosure. Contact the Division of Elections immediately if your password has been compromised.

Creating Reports

Campaign reports must be entered, saved, reviewed, and filed via the EFS either by directly entering data into the web application or by uploading data using an approved vendor's software. The division maintains a list of approved software vendors whose programs meet the file specifications for filing campaign reports. Instructions for uploading reports are provided in the *EFS Help Guide*.

Submitting Reports

Reports will be held in pending status until the report is ready to be filed. Each person eligible to file a report will receive a PIN (personal identification number) that allows the person to file reports via the EFS. **A person's PIN is considered the same as that person's signature on a filed report.**

Electronic Receipts

The person filing a report on the EFS may print an electronic receipt verifying the report was filed with the Division. Each report filed by means of the EFS is considered to be under oath and such persons filing the report are subject to the provisions of Chapter 106, F.S.

EFS HELP LINE
(850) 245-6240

EFS HELP GUIDE

http://www.elections.myflorida.com/publications/pdf/2007-2008/EFS_Manual.pdf

NOTE: For further information on the EFS, see Rule 1S-2.017, Reporting Requirements for Campaign Treasurer's Reports, Florida Administrative Code.

Chapter 14

Electioneering Communications

(See Note on page 2)

Electioneering communication means a paid expression in any communications media by means other than the spoken word in direct conversation that:

1. Refers to or depicts a clearly identified candidate for office or contains a clear reference indicating that an issue is to be voted on at an election, without expressly advocating the election or defeat of a candidate or passage or defeat of an issue;
2. Is targeted to the relevant electorate for communications referring to or depicting a clearly identified candidate for office. A communication is considered targeted if 1,000 or more persons in the geographic area the candidate would represent if elected will receive the communication; and
3. Is published after the issue is designated a ballot position or 120 days before the date of the election on the issue, whichever occurs first, for communications containing a clear reference indicating that issue is to be voted on in an election.

The **exceptions** are:

1. A statement or depiction by an organization, in existence prior to the time during which a candidate named or depicted qualifies or an issue identified is placed on the ballot for that election, made in that organization's newsletter distributed only to members of that organization;
2. An editorial endorsement, news story, commentary, or editorial by any newspaper, radio, television station, or other recognized news medium;
3. A communication that constitutes a public debate or forum that includes at least two opposing candidates for an office or one advocate and one opponent of an issue, or that solely promotes such a debate or forum and is made by or on behalf of the person sponsoring the debate or forum, provided that the staging organization:
 - a. Is either a charitable organization that does not make other electioneering communications and does not otherwise support or oppose any political candidate or political party; or a newspaper, radio station, television station, or other recognized news medium; and
 - b. Does not structure the debate to promote or advance one candidate or issue position over another.

An expenditure made for, or in furtherance of, an electioneering communication shall not be considered a contribution to or on behalf of any candidate and shall not constitute an independent expenditure, nor be subject to the limitations applicable to independent expenditures.

(Section 106.011(18), F.S.)

Electioneering Communication Disclaimers

Any electioneering communication shall prominently state *“Paid electioneering communication paid for by (Name and address of person paying for the communication).”*

Any person who fails to include the disclaimer in any electioneering communication that is required to contain such disclaimer commits a misdemeanor of the first degree, punishable as provided in Sections 775.082 or 775.083, F.S.

(Section 106.1439, F.S.)

Chapter 15

Political Advertising

A political advertisement is a paid expression in any communications media prescribed in Section 106.011(13), whether radio, television, newspaper, magazine, periodical, campaign literature, direct mail, or display or by means other than the spoken word in direct conversation, which expressly advocates the election or defeat of a candidate or the approval or rejection of an issue.

(Section 106.011(17), F.S.)

Disclaimers

Any political advertisement, other than an advertisement that is paid for by a candidate, that is published, displayed, or circulated prior to, or on the day of, any election must **prominently** be marked “*paid political advertisement*” or “*pd. pol. adv.*” and must state the name and address of the persons sponsoring the advertisement.

The political advertisement must also state whether the advertisement and cost of production is paid for or provided in-kind by or at the expense of the entity publishing, displaying, broadcasting or circulating the political advertisement; or state who provided or paid for the advertisement and cost of production, if different from the source of sponsorship. (This paragraph does not apply if the source of sponsorship is patently clear from the content or format of the political advertisement.)

Any political advertisement, including those paid for by a political party, other than an independent expenditure, offered by or on behalf of a candidate must be approved in advance by the candidate. Such political advertisement must expressly state that the content of the advertisement was approved by the candidate and must state who paid for the advertisement. The candidate shall provide a written statement of authorization to the newspaper, radio station, television station or other medium for each such advertisement submitted for publication, display, broadcast or other distribution. This paragraph does not apply to messages used by a candidate and his or her supporters if those messages are designed to be worn by a person.

Any person who makes an independent expenditure for a political advertisement shall provide a written statement that no candidate has approved the advertisement to the newspaper, radio station, television station or other medium for each such advertisement submitted for publication, display, broadcast or other distribution. The advertisement must also contain a statement that no candidate has approved the advertisement. This paragraph does not apply to campaign messages used by a candidate and his or her supporters if those messages are designed to be worn by a person.

Any political advertisement made pursuant to section 106.021(3)(a) for the purpose of jointly endorsing three or more candidates must be marked “paid political advertisement” or with the abbreviations “pd. pol. adv.” and must prominently state, “Paid for and sponsored by (name of person paying for political advertisement). Approved by (names of persons, party affiliation, and offices sought in the political advertisement)”.

(Section 106.143, F.S.)

Examples:



1. Political advertisement for a candidate representing that an organization supports him or her, paid for in-kind by the organization, with specific approval from the organization in writing:

<p>July 15, 2006</p> <p>Dear Sir or Madam:</p> <p>Please let this letter serve as my approval of the political advertisement by the Pup P. Dog Foundation supporting my candidacy for County Commission, District 1.</p> <p>Sincerely,</p> <p><i>Joe Cool</i></p>	<p>ELECT Joe Cool</p> <p>For County Commission, District 1 Democrat</p> <p><u>Supported by Pup P. Dog Foundation</u></p> <p>Pd. Pol. Adv. sponsored and paid for in-kind by Pup P. Dog Foundation, Zero Street, Jupiter, FL 32323 Approved by Joe Cool, Democrat, For County Commission</p>
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2. Political advertisement supporting or opposing an issue:

<p>Say "Yes" to Cleaner Air Vote "Yes" on Proposition 10</p> <p>Pd. Pol. Adv. paid for by the Florida Clean Air Committee, 110 Pine Street, Jupiter, FL 32323</p>
--

3. Political advertisement, not an independent expenditure, offered on behalf of a nonpartisan candidate:

 <p>POT' O GOLD ORGANIZATION Supports the Re-Election of Goldie Green Nassau County Judge</p> <p>Pd. Pol. Adv. by Pot O'Gold Organization 111 Jewel Street, Tallahassee, FL 32333 Content approved in advance by Goldie Green, For Nassau County Judge</p>	<p>July 15, 2006 </p> <p>Dear Sir or Madam:</p> <p>Please let this letter serve as my approval of the political advertisement by the Pot O'Gold Organization supporting my candidacy for Nassau County Judge.</p> <p>Sincerely,</p> <p><i>Goldie Green</i></p>
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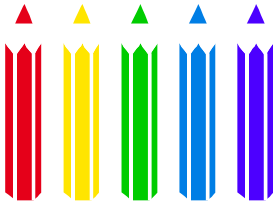
4. Independent expenditure political advertisement supporting a partisan candidate running for a partisan office:

<p>Birds of a Feather Association Supports</p> <p>Tweety Bird For Public Defender, Fourth Circuit Democrat</p> <p>Paid Political Advertisement paid for by the Birds of a Feather Association independently of any candidate 444 Robin Lane, Jacksonville, FL 33433 This advertisement was not approved by any candidate.</p>	<p>Birds of a Feather Assoc.</p> <p>July 15, 2006</p> <p>Dear Sir or Madam:</p> <p>The enclosed advertisement is an independent expenditure by the Birds of a Feather Association in support of Tweety Bird for Public Defender, Fourth Circuit.</p> <p>This advertisement was not approved by any candidate.</p> <p>Sincerely, <i>Gold Finch</i></p>
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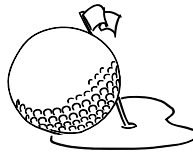
Disclaimers on Novelty Items

None of the requirements of Section 106.143, F.S., apply to novelty items having a retail value of \$10 or less that support, but do not oppose, a candidate or issue.

Examples:



Pens/Pencils



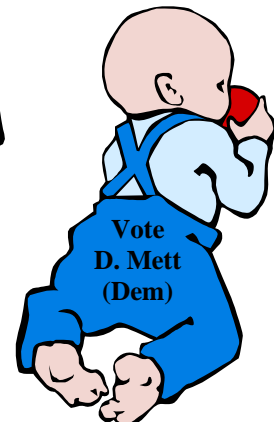
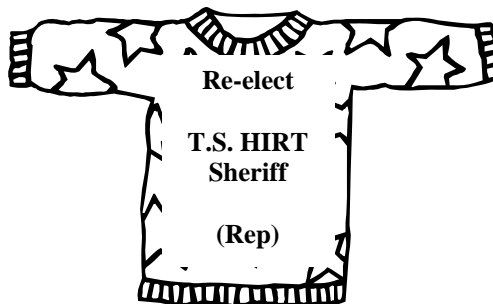
Golf Balls





Balloons

Items Designed to be Worn by a Person

Items designed to be worn by a person are not subject to the requirements of Section 106.143, F.S., except that such items must express the name of the political party of which the candidate is seeking the nomination or is the nominee or indicate that the candidate has no party affiliation.



Fund Raiser Mailouts

 <p>Mr. John Doe 333 Three Street Miami, FL 33333</p>	 <p>COME : ALL!</p> <p>Fish Fry to Raise Funds for FRANK JONES (Adults \$10.00 – Kids Under 12 Free)</p> <p>Pd. Pol. Adv. Paid for in-kind by ABC Committee, Third Street, Miami, FL 33333 Approved by Frank Jones (NPA) for Dog Catcher</p> <p>The purchase of a ticket for or a contribution to the campaign fund raiser is a contribution to the campaign of Frank Jones.</p>
<p><i>I'LL BE THERE!</i></p> <p><i>Put me down for _____ tickets</i></p> <p><i>Pd. Pol. Adv. Paid for in-kind by ABC Committee, Third Street, Miami, FL 33333 Approved by Frank Jones (NPA) for Dog Catcher</i></p> <p><i>The purchase of a ticket for or a contribution to the campaign fund raiser is a contribution to the campaign of Frank Jones.</i></p>	

Bumper Stickers

B. Beep School Board, District 17

**Political advertisement paid for and approved by
B. Beep, School Board**

Language Other Than English

Any political advertisement which is published, displayed or produced in a language other than English may provide the information required by Section 106.143, F.S., in the language used in the advertisement.

Miscellaneous Provisions

It is unlawful for any candidate or person on behalf of a candidate to represent that any person or organization supports such candidate, unless the person or organization so represented has given specific approval in writing to the candidate to make such representation. However, this paragraph does not apply to editorial endorsement by any newspaper, radio or television station, or other recognized news medium, and publication by a party committee advocating the candidacy of its nominees.

Use of Closed Captioning and Descriptive Narrative in All Television Broadcasts

Each candidate, political party, and political committee must use closed captioning and descriptive narrative in all television broadcasts regulated by the Federal Communications Commission that are on behalf of, or sponsored by, a candidate, political party, or political committee or must file a written statement with the qualifying officer setting forth the reasons for not doing so. Failure to file this statement with the appropriate qualifying officer constitutes a violation of the Florida Election Code and is under the jurisdiction of the Florida Elections Commission.

(Section 106.165, F.S.)

Chapter 16

Telephone Solicitation

Telephone Solicitation

1. Disclosure requirements:

- a. Any telephone call supporting or opposing a candidate, elected public official or ballot proposal must identify the persons or organizations sponsoring the call by stating either: “paid for by _____ (insert name of persons or organizations sponsoring the call)” or “paid for on behalf of _____ (insert name of persons or organizations authorizing call).” This does not apply to any telephone call in which both the individual making the call is not being paid and the individuals participating in the call know each other prior to the call.
- b. Any telephone call conducted for the purpose of polling respondents concerning a candidate or elected public official which is a part of a series of like telephone calls that consists of fewer than 1,000 completed calls and averages more than two minutes in duration is presumed to be a political poll and not subject to the provisions of the above paragraph.

2. Prohibitions:

- a. No telephone call shall state or imply that the caller represents any person or organization unless the person or organization so represented has given specific approval in writing to make such representation.
- b. No telephone call shall state or imply that the caller represents a nonexistent person or organization.

3. Written authorization requirements: Any telephone call, not conducted by independent expenditure, supporting or opposing a candidate or ballot proposal, requires prior written authorization by the candidate or sponsor of the ballot proposal that the call supports. A copy of such written authorization must be placed on file with the qualifying officer by the candidate or sponsor of the ballot proposal prior to the time the calls commence.

4. Penalties: Any person who willfully violates any provision of this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

The term “person” includes any candidate; any officer of any political committee, committee of continuous existence or political party executive committee; any officer, partner, attorney, or other representative of a corporation, partnership, or other business entity; and any agent or other person acting on behalf of any candidate, political committee, committee of continuous existence, political party executive committee, or corporation, partnership, or other business entity.

(Section 106.147, F.S.)

Telephone Solicitation, Registered Agent

1. Disclosure requirements:

- a. Any person or organization that conducts any business in this state which consists of making paid telephone calls supporting or opposing any candidate or elected public official must, prior to conducting such business, have and continuously maintain, for at least 180 days following the cessation of such business activities in the state, a registered agent for the purpose of any service of process, notice, or demand required or authorized by law and must file with the Division of Elections a notice of such registered agent. Such registered agent must be an individual who is a resident of this state, a domestic corporation, or a foreign corporation authorized to do business in this state. However, this section does not apply to any person or organization already lawfully registered to conduct business in this state.
- b. Conducting business in this state as specified in the preceding paragraph includes both placing telephone calls from a location in this state and placing telephone calls from a location outside this state to individuals located in this state.
- c. **Form DS-DE 100, Telephone Solicitation, Resident Agent Notice** shall be filed with the Division of Elections and, at a minimum, must elicit all of the following information:
 - (1) The name, address and telephone number of the registered agent.
 - (2) The name, address and telephone number of the person or organization conducting business in this state as specified.
- d. The Division of Elections must be notified immediately of any changes in the information required in a. above.

2. **Violations:** Any person or organization that violates this section commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(Section 106.1475, F.S.)

Chapter 17

Florida Elections Commission

The Florida Elections Commission is a separate and independent entity from the Division of Elections. Commissioners are appointed by the Governor from lists of names submitted by legislative leaders.

Automatic Fine Appeal Process

A political committee may appeal or dispute a fine for a late filed campaign treasurer's report. The appeal must be based upon, but not limited to, unusual circumstances surrounding the failure to file on the designated due date. The political committee may request and is entitled to a hearing before the Florida Elections Commission, which has the authority to waive the fine in whole or in part. The Florida Elections Commission must consider the mitigating and aggravating circumstances contained in Section 106.265(1), F.S., when determining the amount of a fine, if any, to be waived. The appeal must be made within 20 days of the receipt of the notice of payment due. The committee must, within the 20 day period, notify the filing officer in writing of his or her intention to bring the matter before the Commission.

(Section 106.07(8)(c), F.S.)

Complaint Process

Any person who has information of a violation of Chapters 104 or 106, F.S., shall file a sworn complaint with the Florida Elections Commission, 107 West Gaines Street, Suite 224, Tallahassee, Florida 32399-1050 or call 850-922-4539. A complaint form may be obtained from the Florida Elections Commission or downloaded from the Commission's website at www.fec.state.fl.us.

(Sections 106.25 and 106.28, F.S.)

Chapter 18

Frequently Asked Questions

Campaign Advertising

What information must be included on a political disclaimer?

Political advertisement not supporting or opposing an issue:

"paid political advertisement" or "pd. pol. adv."
"(name and address of the persons sponsoring the advertisement)"

Political advertisement not paid for by a candidate, that supports a candidate, but is not an independent expenditure:

"paid political advertisement" or "pd. pol. adv."
"(name and address of the persons sponsoring the advertisement)"
"The content of this advertisement was approved by the candidate."

Political advertisement not paid for by a candidate, that supports a candidate, and is an independent expenditure:

"Paid political advertisement paid for by (name and address of the person paying for advertisement) independently of any (candidate or committee)."

Political advertisement endorsing three or more candidates (Section 106.021(3)(d), F.S.):

"Paid political advertisement" or "pd. pol. adv."
"Paid for and sponsored by (name of person paying for political advertisement) . Approved by (names of persons, party affiliation, and offices sought in the political advertisement) ."

What is an electioneering communication?

Paid expressions other than the spoken word that refer to or depict a clearly identified candidate or issue, but do not expressly advocate the election or defeat of a candidate or issue. Expressly advocate means the communication has words such as "vote for," "vote against" or "elect." (Section 106.011(18), F.S.) **(However, see Note on page 2.)**

Do electioneering communications need disclaimers?

Yes. The disclaimer must read:

"Paid electioneering communication paid for by
(name and address of person paying for the communication)"
(Section 106.1439, F.S.) **(However, see Note on page 2.)**

Campaign Finance

How many deputy treasurers may a political committee have?

Political committees may appoint up to three deputy treasurers. (Section 106.021(1)(a), F.S.)

Can a deputy treasurer file and submit campaign reports?

Yes. A deputy treasurer may perform all of the duties of a campaign treasurer when specifically authorized to do so by the campaign treasurer and chairperson. (Section 106.021(4), F.S.)

Who is responsible for keeping tabs on aggregate totals of campaign contributions?

The campaign treasurer is responsible for receiving and reporting all contributions. (Section 106.06, F.S.)

May a political committee accept a contribution from a trust fund?

Yes. Chapter 106, F.S., defines a "person" as an individual, corporation, association, firm, partnership, joint venture, joint stock company, club, organization, estate, trust, business trust, syndicate, or other combination of individuals having collective capacity. The term also includes a political party, political committee or committee of continuous existence. (Section 106.011(8), F.S.)

Do I have to itemize small contributions of \$5, \$10, \$50, etc.?

Yes. The law provides no exceptions for the reporting of contribution information, regardless of the size of the contribution. The full name and address of the contributor are also required. (Section 106.07(4)(a), F.S.)

Are in-kind contributions subject to the same limitations as monetary contributions?

Yes. In Chapter 106, F.S., the definition of a "contribution" includes contributions in-kind having an attributable monetary value in any form. Therefore, in-kind contributions are subject to the same limitations set for monetary contributions. (Section 106.011(3) and 106.08, F.S.)

How is the value of an in-kind contribution determined?

The contributor must inform the person receiving the contribution of the fair market value at the time it is given. (Section 106.055, F.S.)

Can a corporation give to a political committee?

Yes. A corporation is under the definition of a "person" in Chapter 106, F.S. (Section 106.011(8), F.S.)

Can I conduct a raffle to raise money for the committee?

No. Pursuant to Section 849.09, Florida Statutes, it is unlawful for any person in this state to set up, promote, or conduct any lottery for money or anything of value.

Do I have to file campaign reports on the Electronic Filing System (EFS)?

If the Division of Elections is your filing officer, you are required to file all campaign reports via the EFS. If your filing officer is other than the Division of Elections, you must contact that office to find out its requirements. (Section 106.0705, F.S.)

If my treasurer is out of town, can I have an extension to file my report?

No. The election laws do not provide for an extension under these circumstances. (Sections 106.04(4)(b)1., 106.07(2)(b) and (3), F.S.)

If I make a mistake on my report can I go back in and correct it on the EFS?

Once the report is submitted to the Division of Elections, the EFS will not permit you to go back and make changes. In order to correct mistakes or add and delete information, you must submit an "amendment."

If I am late submitting my report, how is my fine calculated?

The fine is \$50 per day for the first three days late and, thereafter, \$500 per day for each late day, not to exceed 25% of the total receipts or expenditures, whichever is greater for the period covered by the late report. However, for reports immediately preceding the primary and general election, the fine shall be \$500 per day for each day, not to exceed 25% of the total receipts or expenditures, which is greater, for the period covered by the late report.

How long are campaign records kept at the Division of Elections or the supervisor of elections?

Ten years from the date of receipt. (Sections 98.015(5) and 106.22(4), F.S.)

This publication is available in alternate format upon request by contacting 850.245.6240.