

# HOUSE BILL No. 5487

March 17, 2016, Introduced by Rep. Webber and referred to the Committee on Elections.

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

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

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

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

6           (b) Develop a filing, coding, and cross-indexing system for  
7 the filing of required reports and statements consistent with this  
8 act, and supervise the implementation of the filing systems by the  
9 clerks of the counties.

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

1 (d) Prepare forms, instructions, and manuals required under  
2 this act.

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

6 (f) Upon receipt of a written request and the required filing,  
7 waive payment of a late filing fee if the request for the waiver is  
8 based on good cause and accompanied by adequate documentation. One  
9 or more of the following reasons constitute good cause for a late  
10 filing fee waiver:

11 (i) The incapacitating physical illness, hospitalization,  
12 accident involvement, death, or incapacitation for medical reasons  
13 of a person required to file, a person whose participation is  
14 essential to the preparation of the statement or report, or a  
15 member of the immediate family of these persons.

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

24 (2) A declaratory ruling shall be issued under this section  
25 only if the person requesting the ruling has provided a reasonably  
26 complete statement of facts necessary for the ruling or if the  
27 person requesting the ruling has, with the permission of the

1 secretary of state, supplied supplemental facts necessary for the  
2 ruling. A request for a declaratory ruling that is submitted to the  
3 secretary of state shall be made available for public inspection  
4 within 48 hours after its receipt. An interested person may submit  
5 written comments regarding the request to the secretary of state  
6 within 10 business days after the date the request is made  
7 available to the public. Within 45 business days after receiving a  
8 declaratory ruling request, the secretary of state shall make a  
9 proposed response available to the public. An interested person may  
10 submit written comments regarding the proposed response to the  
11 secretary of state within 5 business days after the date the  
12 proposal is made available to the public. Except as otherwise  
13 provided in this section, the secretary of state shall issue a  
14 declaratory ruling within 60 business days after a request for a  
15 declaratory ruling is received. If the secretary of state refuses  
16 to issue a declaratory ruling, the secretary of state shall notify  
17 the person making the request of the reasons for the refusal and  
18 shall issue an interpretative statement providing an informational  
19 response to the question presented within the same time limitation  
20 applicable to a declaratory ruling. A declaratory ruling or  
21 interpretative statement issued under this section shall not state  
22 a general rule of law, other than that which is stated in this act,  
23 until the general rule of law is promulgated by the secretary of  
24 state as a rule under the administrative procedures act of 1969,  
25 1969 PA 306, MCL 24.201 to 24.328, or under judicial order.

26 (3) Under extenuating circumstances, the secretary of state  
27 may issue a notice extending for not more than 30 business days the

1 period during which the secretary of state shall respond to a  
2 request for a declaratory ruling. The secretary of state shall not  
3 issue more than 1 notice of extension for a particular request. A  
4 person requesting a declaratory ruling may waive, in writing, the  
5 time limitations provided by this section.

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

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

26 (6) A complaint filed under subsection (5) shall satisfy all  
27 of the following requirements:

1 (a) Be signed by the complainant.

2 (b) State the name, address, and telephone number of the  
3 complainant.

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

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

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

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

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

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

1 state's Internet website. If, after 90 business days, the secretary  
2 of state is unable to correct or prevent further violation by these  
3 informal methods, the secretary of state shall do either of the  
4 following:

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

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

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

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

26 (13) When a report or statement is filed under this act, the  
27 secretary of state shall review the report or statement and may

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

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

13 (15) Unless otherwise specified in this act, a person who  
14 violates a provision of this act is subject to a civil fine of not  
15 more than ~~\$1,000.00~~ **\$3,000.00** for each violation. A civil fine is  
16 in addition to, but not limited by, a criminal penalty prescribed  
17 by this act.

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

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

25 (b) Pay to the person against whom the complaint was filed  
26 some or all of the expenses, including, but not limited to,  
27 reasonable attorney fees incurred by that person in proceedings



1 under this act as a direct result of the filing of the complaint.

2 (17) Except as otherwise provided in section 57, there is no  
3 private right of action, either in law or in equity, under this  
4 act. Except as otherwise provided in section 57, the remedies  
5 provided in this act are the exclusive means by which this act may  
6 be enforced and by which any harm resulting from a violation of  
7 this act may be redressed. The criminal penalties provided by this  
8 act may only be enforced by the attorney general and only upon  
9 referral by the secretary of state as provided under subsection  
10 (10) or (13).

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

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

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

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

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

27 (d) Upon written request, waive the payment of a late filing

- 1 fee if the request for a waiver is based on good cause as
- 2 prescribed in subsection (1)(f).