

§ 439. Statements filed with State officers; “appropriate State” defined; duties of State officers; waiver of duplicate filing requirement for States with electronic access

(a) Statements filed; “appropriate State” defined

(1) A copy of each report and statement required to be filed by any person under this Act shall be filed by such person with the Secretary of State (or equivalent State officer) of the appropriate State, or, if different, the officer of such State who is charged by State law with maintaining State election campaign reports. The chief executive officer of such State shall designate any such officer and notify the Commission of any such designation.

(2) For purposes of this subsection, the term “appropriate State” means—

(A) for statements and reports in connection with the campaign for nomination for election of a candidate to the office of President or Vice President, each State in which an expenditure is made on behalf of the candidate; and

(B) for statements and reports in connection with the campaign for nomination for election, or election, of a candidate to the office of Senator or Representative in, or Delegate or Resident Commissioner to, the Congress, the State in which the candidate seeks election; except that political committees other than authorized committees are only required to file, and Secretaries of State required to keep, that portion of the report applicable to candidates seeking election in that State.

(b) Duties of State officers

The Secretary of State (or equivalent State officer), or the officer designated under subsection (a)(1) of this section, shall—

(1) receive and maintain in an orderly manner all reports and statements required by this Act to be filed therewith;

(2) keep such reports and statements (either in original filed form or in facsimile copy by microfilm or otherwise) for 2 years after their date of receipt;

(3) make each report and statement filed therewith available as soon as practicable (but within 48 hours of receipt) for public inspection and copying during regular business hours, and permit copying of any such report or statement by hand or by duplicating machine at the request of any person, except that such copying shall be at the expense of the person making the request; and

(4) compile and maintain a current list of all reports and statements pertaining to each candidate.

(c) Waiver; electronic access

Subsections (a) and (b) of this section shall not apply with respect to any State that, as determined by the Commission, has a system that permits electronic access to, and duplication of, reports and statements that are filed with the Commission.

(Pub. L. 92-225, title III, § 312, formerly § 309, Feb. 7, 1972, 86 Stat. 18; renumbered § 317 and amended Pub. L. 93-443, title II, § 208(a), (c)(11), Oct. 15, 1974, 88 Stat. 1279, 1287; renumbered § 316, Pub. L.

94-283, title I, § 105, May 11, 1976, 90 Stat. 481; renumbered § 312 and amended Pub. L. 96-187, title I, §§ 105(4), 110, Jan. 8, 1980, 93 Stat. 1354, 1364; Pub. L. 104-79, § 2, Dec. 28, 1995, 109 Stat. 791.)

REFERENCES IN TEXT

This Act, referred to in subssecs. (a)(1) and (b)(1), means the Federal Election Campaign Act of 1971, as amended, as defined by section 431 of this title.

PRIOR PROVISIONS

A prior section 312 of Pub. L. 92-225 was renumbered section 308, and is classified to section 437f of this title.

Another prior section 312 of Pub. L. 92-225 was renumbered section 311, and was classified to section 437e of this title, prior to repeal by Pub. L. 96-187.

AMENDMENTS

1995—Subsec. (c). Pub. L. 104-79 added subsec. (c).

1980—Subsec. (a). Pub. L. 96-187, § 110, in revising text, added par. (1), incorporating part of first sentence reading “A copy of each statement required to be filed with the Commissioner by this subchapter shall be filed with the Secretary of State (or, if there is no office of Secretary of State, the equivalent State officer) of the appropriate State.”; and reenacted as par. (2) definition provision of second sentence, redesignating as cl. (A) prior cl. (1) provisions, inserting reference to statements respecting the campaign, striking out reference to campaign for election and provision for expenditure by the candidate, and redesignating as cl. (B) prior cl. (2), inserting reference to statements respecting the campaign and requirement only for political committees other than authorized committees to file and Secretaries of State to keep that portion of report applicable to candidates seeking election in that State.

Subsec. (b). Pub. L. 96-187, § 110, in revising text, provided for performance of the prescribed duties by the officer designated under subsec. (a)(1); substituted in cl. (1) “reports and statements required by this Act to be filed therewith” for “reports and statements required by this subchapter to be filed with him”; substituted in cl. (2) requirement of a 2 year retention period for reports and statements after receipt in original form or in facsimile copy by microfilm for ten year retention period after such receipt and five year period when relating to House of Representatives candidates; required in cl. (3) that filed reports and statements be available within 48 hours of receipt rather than no later than end of day of receipt; and provided in cl. (4) for inclusion of reports in current list and exclusion of parts of statements.

1974—Subsec. (a). Pub. L. 93-443, § 208(c)(11), substituted “the Commission” for “a supervisory officer”.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-187 effective Jan. 8, 1980, see section 301(a) of Pub. L. 96-187, set out as a note under section 431 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as a note under section 431 of this title.

§ 439a. Use of contributed amounts for certain purposes

(a) Permitted uses

A contribution accepted by a candidate, and any other donation received by an individual as support for activities of the individual as a holder of Federal office, may be used by the candidate or individual—

(1) for otherwise authorized expenditures in connection with the campaign for Federal office of the candidate or individual;

(2) for ordinary and necessary expenses incurred in connection with duties of the individual as a holder of Federal office;

(3) for contributions to an organization described in section 170(c) of title 26;

(4) for transfers, without limitation, to a national, State, or local committee of a political party;

(5) for donations to State and local candidates subject to the provisions of State law; or

(6) for any other lawful purpose unless prohibited by subsection (b) of this section.

(b) Prohibited use

(1) In general

A contribution or donation described in subsection (a) of this section shall not be converted by any person to personal use.

(2) Conversion

For the purposes of paragraph (1), a contribution or donation shall be considered to be converted to personal use if the contribution or amount is used to fulfill any commitment, obligation, or expense of a person that would exist irrespective of the candidate's election campaign or individual's duties as a holder of Federal office, including—

(A) a home mortgage, rent, or utility payment;

(B) a clothing purchase;

(C) a noncampaign-related automobile expense;

(D) a country club membership;

(E) a vacation or other noncampaign-related trip;

(F) a household food item;

(G) a tuition payment;

(H) admission to a sporting event, concert, theater, or other form of entertainment not associated with an election campaign; and

(I) dues, fees, and other payments to a health club or recreational facility.

(c) Restrictions on use of campaign funds for flights on noncommercial aircraft

(1) In general

Notwithstanding any other provision of this Act, a candidate for election for Federal office (other than a candidate who is subject to paragraph (2)), or any authorized committee of such a candidate, may not make any expenditure for a flight on an aircraft unless—

(A) the aircraft is operated by an air carrier or commercial operator certificated by the Federal Aviation Administration and the flight is required to be conducted under air carrier safety rules, or, in the case of travel which is abroad, by an air carrier or commercial operator certificated by an appropriate foreign civil aviation authority and the flight is required to be conducted under air carrier safety rules; or

(B) the candidate, the authorized committee, or other political committee pays to the owner, lessee, or other person who provides the airplane the pro rata share of the fair market value of such flight (as determined by dividing the fair market value of the normal and usual charter fare or rental charge

for a comparable plane of comparable size by the number of candidates on the flight) within a commercially reasonable time frame after the date on which the flight is taken.

(2) House candidates

Notwithstanding any other provision of this Act, in the case of a candidate for election for the office of Representative in, or Delegate or Resident Commissioner to, the Congress, an authorized committee and a leadership PAC of the candidate may not make any expenditure for a flight on an aircraft unless—

(A) the aircraft is operated by an air carrier or commercial operator certificated by the Federal Aviation Administration and the flight is required to be conducted under air carrier safety rules, or, in the case of travel which is abroad, by an air carrier or commercial operator certificated by an appropriate foreign civil aviation authority and the flight is required to be conducted under air carrier safety rules; or

(B) the aircraft is operated by an entity of the Federal government or the government of any State.

(3) Exception for aircraft owned or leased by candidate

(A) In general

Paragraphs (1) and (2) do not apply to a flight on an aircraft owned or leased by the candidate involved or an immediate family member of the candidate (including an aircraft owned by an entity that is not a public corporation in which the candidate or an immediate family member of the candidate has an ownership interest), so long as the candidate does not use the aircraft more than the candidate's or immediate family member's proportionate share of ownership allows.

(B) Immediate family member defined

In this subparagraph (A), the term "immediate family member" means, with respect to a candidate, a father, mother, son, daughter, brother, sister, husband, wife, father-in-law, or mother-in-law.

(4) Leadership PAC defined

In this subsection, the term "leadership PAC" has the meaning given such term in section 434(i)(8)(B) of this title.

(Pub. L. 92-225, title III, §313, as added Pub. L. 107-155, title III, §301, Mar. 27, 2002, 116 Stat. 95; amended Pub. L. 108-447, div. H, title V, §532, Dec. 8, 2004, 118 Stat. 3272; Pub. L. 110-81, title VI, §601(a), Sept. 14, 2007, 121 Stat. 774.)

REFERENCES IN TEXT

This Act, referred to in subsec. (c)(1), (2), means the Federal Election Campaign Act of 1971, as amended, as defined by section 431 of this title.

PRIOR PROVISIONS

A prior section 439a, Pub. L. 92-225, title III, §313, formerly §318, as added Pub. L. 93-443, title II, §210, Oct. 15, 1974, 88 Stat. 1288; renumbered §317, Pub. L. 94-283, title I, §105, May 11, 1976, 90 Stat. 481; renumbered §312 and amended Pub. L. 96-187, title I, §§105(4), 113, Jan. 8,

1980, 93 Stat. 1354, 1366; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 101-194, title V, § 504(a), Nov. 30, 1989, 103 Stat. 1755, also related to use of contributed amounts for certain purposes, prior to repeal by Pub. L. 107-155, title III, § 301, Mar. 27, 2002, 116 Stat. 95.

A prior section 313 of Pub. L. 92-225 was renumbered section 309, and is classified to section 437g of this title.

Another prior section 313 of Pub. L. 92-225 was renumbered section 308, and is classified to section 437f of this title.

AMENDMENTS

2007—Subsec. (c). Pub. L. 110-81 added subsec. (c).

2004—Subsec. (a)(5), (6). Pub. L. 108-447, which directed the amendment of section 312a(a) of the Federal Election Campaign Act of 1971 by adding pars. (5) and (6), was executed by making the amendments to this section, which is section 313 of the Federal Election Campaign Act of 1971, to reflect the probable intent of Congress.

EFFECTIVE DATE OF 2007 AMENDMENT

Pub. L. 110-81, title VI, § 601(b), Sept. 14, 2007, 121 Stat. 775, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to flights taken on or after the date of the enactment of this Act [Sept. 14, 2007].”

EFFECTIVE DATE

Section effective Nov. 6, 2002, see section 402 of Pub. L. 107-155, set out as an Effective Date of 2002 Amendment; Regulations note under section 431 of this title.

§ 439b. Repealed. Pub. L. 96-187, title I, § 105(1), Jan. 8, 1980, 93 Stat. 1354

Section, Pub. L. 92-225, title III, § 318, formerly § 319, as added Pub. L. 93-443, title II, § 210, Oct. 15, 1974, 88 Stat. 1289; renumbered § 318, Pub. L. 94-283, title I, § 105, May 11, 1976, 90 Stat. 481, set forth prohibitions respecting franked solicitations.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 8, 1980, see section 301(a) of Pub. L. 96-187, set out as an Effective Date of 1980 Amendment note under section 431 of this title.

§ 439c. Authorization of appropriations

There are authorized to be appropriated to the Commission for the purpose of carrying out its functions under this Act, and under chapters 95 and 96 of title 26, not to exceed \$5,000,000 for the fiscal year ending June 30, 1975. There are authorized to be appropriated to the Commission \$6,000,000 for the fiscal year ending June 30, 1976, \$1,500,000 for the period beginning July 1, 1976, and ending September 30, 1976, \$6,000,000 for the fiscal year ending September 30, 1977, \$7,811,500 for the fiscal year ending September 30, 1978, and \$9,400,000 (of which not more than \$400,000 are authorized to be appropriated for the national clearinghouse function described in section 438(a)(10)¹ of this title) for the fiscal year ending September 30, 1981.

(Pub. L. 92-225, title III, § 314, formerly § 320, as added Pub. L. 93-443, title II, § 210, Oct. 15, 1974, 88 Stat. 1289; renumbered § 319 and amended Pub. L. 94-283, title I, §§ 105, 113, May 11, 1976, 90 Stat. 481, 495; Pub. L. 95-127, Oct. 12, 1977, 91 Stat. 1110; renumbered § 314, Pub. L. 96-187, title I, § 105(5), Jan. 8, 1980, 93 Stat. 1354; Pub. L. 96-253, May 29, 1980, 94 Stat. 398; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095.)

¹ See References in Text note below.

REFERENCES IN TEXT

This Act, referred to in text, means the Federal Election Campaign Act of 1971, as amended, as defined by section 431 of this title.

Section 438(a)(10) of this title, referred to in text, was repealed by Pub. L. 107-252, title VIII, § 801(b)(3), Oct. 29, 2002, 116 Stat. 1726.

PRIOR PROVISIONS

A prior section 314 of Pub. L. 92-225 was renumbered section 310, and is classified to section 437h of this title.

Another prior section 314 of Pub. L. 92-225 was renumbered section 309, and is classified to section 437g of this title.

AMENDMENTS

1986—Pub. L. 99-514 substituted “Internal Revenue Code of 1986” for “Internal Revenue Code of 1954”, which for purposes of codification was translated as “title 26” thus requiring no change in text.

1980—Pub. L. 96-253 inserted provisions authorizing appropriations of \$9,400,000 for fiscal year ending Sept. 30, 1981.

1977—Pub. L. 95-127 inserted provisions authorizing appropriations of \$7,811,500 for fiscal year ending Sept. 30, 1978.

1976—Pub. L. 94-283, § 113, inserted provisions authorizing appropriations through fiscal year ending Sept. 30, 1977.

EFFECTIVE DATE

Section effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 431 of this title.

§ 440. Repealed. Pub. L. 93-443, title I, § 101(f)(4), Oct. 15, 1974, 88 Stat. 1268

Section, Pub. L. 92-225, title III, § 310, Feb. 7, 1972, 86 Stat. 19, related to prohibition of contributions in the name of another. See section 441f of this title.

EFFECTIVE DATE OF REPEAL

Repeal effective Jan. 1, 1975, see section 410(a) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 431 of this title.

§ 441. Repealed. Pub. L. 94-283, title I, § 112(1), May 11, 1976, 90 Stat. 486

Section, Pub. L. 92-225, title III, § 320, formerly § 311, Feb. 7, 1972, 86 Stat. 19; renumbered § 321, Pub. L. 93-443, title II, § 208(a), Oct. 15, 1974, 88 Stat. 1279; renumbered § 320, Pub. L. 94-283, title I, § 105, May 11, 1976, 90 Stat. 481, provided penalties of not more than \$1,000 fine or not more than 1 year imprisonment, or both for violations of this subchapter. See section 441j of this title.

SAVINGS PROVISION

Pub. L. 94-283, title I, § 114, May 11, 1976, 90 Stat. 495, provided that: “Except as otherwise provided by this Act [see Short Title of 1976 Amendment note set out under section 431 of this title], the repeal by this Act of any section or penalty shall not have the effect of releasing or extinguishing any penalty, forfeiture, or liability incurred under such section or penalty, and such section or penalty shall be treated as remaining in force for the purpose of sustaining any proper action or prosecution for the enforcement of any penalty, forfeiture, or liability.”

§ 441a. Limitations on contributions and expenditures

(a) Dollar limits on contributions

(1) Except as provided in subsection (i) of this section and section 441a-1 of this title, no person shall make contributions—