

tion 410(c)(1) of Pub. L. 93-443, set out as a note under section 431 of Title 2, The Congress.

### § 9011. Judicial review

#### (a) Review of certification, determination, or other action by the Commission

Any certification, determination, or other action by the Commission made or taken pursuant to the provisions of this chapter shall be subject to review by the United States Court of Appeals for the District of Columbia upon petition filed in such Court by any interested person. Any petition filed pursuant to this section shall be filed within thirty days after the certification, determination, or other action by the Commission for which review is sought.

#### (b) Suits to implement chapter

(1) The Commission, the national committee of any political party, and individuals eligible to vote for President are authorized to institute such actions, including actions for declaratory judgment or injunctive relief, as may be appropriate to implement or contrue<sup>1</sup> any provisions of this chapter.

(2) The district courts of the United States shall have jurisdiction of proceedings instituted pursuant to this subsection and shall exercise the same without regard to whether a person asserting rights under provisions of this subsection shall have exhausted any administrative or other remedies that may be provided at law. Such proceedings shall be heard and determined by a court of three judges in accordance with the provisions of section 2284 of title 28, United States Code, and any appeal shall lie to the Supreme Court.

(Added Pub. L. 92-178, title VIII, § 801, Dec. 10, 1971, 85 Stat. 570; amended Pub. L. 93-443, title IV, § 404(c)(19)-(21), Oct. 15, 1974, 88 Stat. 1293; Pub. L. 98-620, title IV, § 402(28)(F), Nov. 8, 1984, 98 Stat. 3359.)

#### AMENDMENTS

1984—Subsec. (b)(2). Pub. L. 98-620 struck out provision requiring the judges designated to hear the case to assign the case for hearing at the earliest practicable date, to participate in the hearing and determination thereof, and to cause the case to be in every way expedited.

1974—Subsec. (a). Pub. L. 93-443, § 404(c)(19), (20), substituted “Commission” for “Comptroller General” in heading and wherever appearing in text.

Subsec. (b). Pub. L. 93-443, § 404(c)(21), substituted “Commission” for “Comptroller General”.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-620 not applicable to cases pending on Nov. 8, 1984, see section 403 of Pub. L. 98-620, set out as an Effective Date note under section 1657 of Title 28, Judiciary and Judicial Procedure.

#### EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as a note under section 431 of Title 2, The Congress.

### § 9012. Criminal penalties

#### (a) Excess expenses

(1) It shall be unlawful for an eligible candidate of a political party for President and Vice

President in a presidential election or any of his authorized committees knowingly and willfully to incur qualified campaign expenses in excess of the aggregate payments to which the eligible candidates of a major party are entitled under section 9004 with respect to such election. It shall be unlawful for the national committee of a major party or minor party knowingly and willfully to incur expenses with respect to a presidential nominating convention in excess of the expenditure limitation applicable with respect to such committee under section 9008(d), unless the incurring of such expenses is authorized by the Commission under section 9008(d)(3).

(2) Any person who violates paragraph (1) shall be fined not more than \$5,000, or imprisoned not more than one year or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

#### (b) Contributions

(1) It shall be unlawful for an eligible candidate of a major party in a presidential election or any of his authorized committees knowingly and willfully to accept any contribution to defray qualified campaign expenses, except to the extent necessary to make up any deficiency in payments received out of the fund on account of the application of section 9006(c), or to defray expenses which would be qualified campaign expenses but for subparagraph (C) of section 9002(11).

(2) It shall be unlawful for an eligible candidate of a political party (other than a major party) in a presidential election or any of his authorized committees knowingly and willfully to accept and expend or retain contributions to defray qualified campaign expenses in an amount which exceeds the qualified campaign expenses incurred with respect to such election by such eligible candidate and his authorized committees.

(3) Any person who violates paragraph (1) or (2) shall be fined not more than \$5,000, or imprisoned not more than one year, or both. In the case of a violation by an authorized committee, any officer or member of such committee who knowingly and willfully consents to such violation shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

#### (c) Unlawful use of payments

(1) It shall be unlawful for any person who receives any payment under section 9006, or to whom any portion of any payment received under such section is transferred, knowingly and willfully to use, or authorize the use of, such payment or such portion for any purpose other than—

(A) to defray the qualified campaign expenses with respect to which such payment was made, or

(B) to repay loans the proceeds of which were used, or otherwise to restore funds (other than contributions to defray qualified campaign expenses which were received and expended) which were used, to defray such qualified campaign expenses.

(2) It shall be unlawful for the national committee of a major party or minor party which

<sup>1</sup> So in original. Probably should be “construe”.

receives any payment under section 9008(b)(3) to use, or authorize the use of, such payment for any purpose other than a purpose authorized by section 9008(c).

(3) Any person who violates paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

**(d) False statements, etc.**

(1) It shall be unlawful for any person knowingly and willfully—

(A) to furnish any false, fictitious, or fraudulent evidence, books, or information to the Commission under this subtitle, or to include in any evidence, books, or information so furnished any misrepresentation of a material fact, or to falsify or conceal any evidence, books, or information relevant to a certification by the Commission or an examination and audit by the Commission under this chapter; or

(B) to fail to furnish to the Commission any records, books, or information requested by it for purposes of this chapter.

(2) Any person who violates paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

**(e) Kickbacks and illegal payments**

(1) It shall be unlawful for any person knowingly and willfully to give or accept any kickback or any illegal payment in connection with any qualified campaign expense of eligible candidates or their authorized committees. It shall be unlawful for the national committee of a major party or minor party knowingly and willfully to give or accept any kickback or any illegal payment in connection with any expense incurred by such committee with respect to a presidential nominating convention.

(2) Any person who violates paragraph (1) shall be fined not more than \$10,000, or imprisoned not more than five years, or both.

(3) In addition to the penalty provided by paragraph (2), any person who accepts any kickback or illegal payment in connection with any qualified campaign expense of eligible candidates or their authorized committees, or in connection with any expense incurred by the national committee of a major party or minor party with respect to a presidential nominating convention shall pay to the Secretary of the Treasury, for deposit in the general fund of the Treasury, an amount equal to 125 percent of the kickback or payment received.

**(f) Unauthorized expenditures and contributions**

(1) Except as provided in paragraph (2), it shall be unlawful for any political committee which is not an authorized committee with respect to the eligible candidates of a political party for President and Vice President in a presidential election knowingly and willfully to incur expenditures to further the election of such candidates, which would constitute qualified campaign expenses if incurred by an authorized committee of such candidates, in an aggregate amount exceeding \$1,000.

(2) This subsection shall not apply to (A) expenditures by a broadcaster regulated by the Federal Communications Commission, or by a periodical publication, in reporting the news or

in taking editorial positions, or (B) expenditures by any organization described in section 501(c) which is exempt from tax under section 501(a) in communicating to its members the views of that organization.

(3) Any political committee which violates paragraph (1) shall be fined not more than \$5,000, and any officer or member of such committee who knowingly and willfully consents to such violation and any other individual who knowingly and willfully violates paragraph (1) shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

**(g) Unauthorized disclosure of information**

(1) It shall be unlawful for any individual to disclose any information obtained under the provisions of this chapter except as may be required by law.

(2) Any person who violates paragraph (1) shall be fined not more than \$5,000, or imprisoned not more than one year, or both.

(Added Pub. L. 92-178, title VIII, §801, Dec. 10, 1971, 85 Stat. 570; amended Pub. L. 93-53, §6(c), July 1, 1973, 87 Stat. 139; Pub. L. 93-443, title IV, §§404(c)(22), 406(b)(2)-(6), Oct. 15, 1974, 88 Stat. 1293, 1296; Pub. L. 94-283, title III, §307(f), May 11, 1976, 90 Stat. 502; Pub. L. 94-455, title XIX, §1906(b)(13)(C), Oct. 4, 1976, 90 Stat. 1834.)

CONSTITUTIONALITY

For information regarding constitutionality of certain provisions of this section, as added by section 801 of Pub. L. 92-178, see Congressional Research Service, *The Constitution of the United States of America: Analysis and Interpretation*, Appendix 1, Acts of Congress Held Unconstitutional in Whole or in Part by the Supreme Court of the United States.

AMENDMENTS

1976—Subsec. (b)(1). Pub. L. 94-283 substituted “9006(c)” for “9006(d)”.

Subsec. (e)(3). Pub. L. 94-455 substituted “Secretary of the Treasury” for “Secretary”.

1974—Subsec. (a). Pub. L. 93-443, §406(b)(2), (3), struck out “campaign” before “expenses” in heading and inserted in par. (1) provision making it unlawful for a national committee of a major or minor party knowingly and willfully to incur expenses with respect to a presidential nominating convention in excess of applicable expenditure limitation unless authorized by the Commission.

Subsec. (c)(2), (3). Pub. L. 93-443, §406(b)(4), added par. (2) and redesignated former par. (2) as (3).

Subsec. (d)(1). Pub. L. 93-443, §404(c)(22), substituted “Commission” for “Comptroller General” wherever appearing and “it” for “him”.

Subsec. (e)(1). Pub. L. 93-443, §406(b)(6), inserted provision making it unlawful for a national committee of a major or minor party knowingly and willfully to give or accept any kickback or any illegal payment in connection with any expense of such committee with respect to a presidential nominating convention.

Subsec. (e)(3). Pub. L. 93-443, §406(b)(6), inserted requirement of payment, by any person accepting any kickback or illegal payment in connection with any expense incurred by the national committee of a major or minor party with respect to a presidential nominating convention, to the Secretary for deposit in the general fund of the Treasury.

1973—Subsec. (b)(1). Pub. L. 93-53 substituted section “9006(d)” for “9006(c)”.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93-443 applicable with respect to taxable years beginning after Dec. 31, 1974, see sec-

tion 410(c)(1) of Pub. L. 93-443, set out as a note under section 431 of Title 2, The Congress.

#### EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93-53 applicable with respect to taxable years beginning after Dec. 31, 1972, see section 6(d) of Pub. L. 93-53, set out as a note under section 6096 of this title.

### § 9013. Effective date of chapter

The provisions of this chapter shall take effect on January 1, 1973.

(Added Pub. L. 92-178, title VIII, §801, Dec. 10, 1971, 85 Stat. 572.)

#### PRIOR PROVISIONS

A prior section 9021, added by Pub. L. 92-178, title VIII, §801, Dec. 10, 1971, 85 Stat. 572, established Presidential Election Campaign Fund Advisory Board, prior to repeal by Pub. L. 93-443, title IV, §408(c), Oct. 15, 1974, 88 Stat. 1297. For effective date of repeal see section 410(c)(1) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 431 of Title 2, The Congress.

### CHAPTER 96—PRESIDENTIAL PRIMARY MATCHING PAYMENT ACCOUNT

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#### PRIOR PROVISIONS

A prior chapter 96, relating to the Presidential Election Campaign Fund Advisory Board, consisted of section 9021, added by Pub. L. 92-178, title VIII, §801, Dec. 10, 1971, 85 Stat. 572, providing for the establishment and composition of the Advisory Board and the compensation and status of members, and was repealed by Pub. L. 93-443, title IV, §408(c), Oct. 15, 1974, 88 Stat. 1297. Section 410(c)(1) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 431 of Title 2, The Congress, provided that the amendments made by section 408(c) shall apply with respect to taxable years beginning after Dec. 31, 1974.

#### AMENDMENTS

1976—Pub. L. 94-283, title III, §305(b), May 11, 1976, 90 Stat. 499, substituted “limitations” for “limitation” in item 9035.

### § 9031. Short title

This chapter may be cited as the “Presidential Primary Matching Payment Account Act”.

(Added Pub. L. 93-443, title IV, §408(c), Oct. 15, 1974, 88 Stat. 1297.)

#### EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1974, see section 410(c)(1) of Pub. L. 93-443, set out as an Effective Date of 1974 Amendment note under section 431 of Title 2, The Congress.

### § 9032. Definitions

For the purposes of this chapter—

(1) The term “authorized committee” means, with respect to the candidates of a political party for President and Vice President of the United States, any political committee which is authorized in writing by such candidates to incur expenses to further the election of such candidates. Such authorization shall be addressed to the chairman of such political committee, and a copy of such authorization shall be filed by such candidates with the Commission. Any withdrawal of any authorization shall also be in writing and shall be addressed and filed in the same manner as the authorization.

(2) The term “candidate” means an individual who seeks nomination for election to be President of the United States. For purposes of this paragraph, an individual shall be considered to seek nomination for election if he (A) takes the action necessary under the law of a State to qualify himself for nomination for election, (B) receives contributions or incurs qualified campaign expenses, or (C) gives his consent for any other person to receive contributions or to incur qualified campaign expenses on his behalf. The term “candidate” shall not include any individual who is not actively conducting campaigns in more than one State in connection with seeking nomination for election to be President of the United States.

(3) The term “Commission” means the Federal Election Commission established by section 306(a)(1) of the Federal Election Campaign Act of 1971.

(4) Except as provided by section 9034(a), the term “contribution”—

(A) means a gift, subscription, loan, advance, or deposit of money, or anything of value, the payment of which was made on or after the beginning of the calendar year immediately preceding the calendar year of the presidential election with respect to which such gift, subscription, loan, advance, or deposit of money, or anything of value, is made, for the purpose of influencing the result of a primary election,

(B) means a contract, promise, or agreement, whether or not legally enforceable, to make a contribution for any such purpose,

(C) means funds received by a political committee which are transferred to that committee from another committee, and

(D) means the payment by any person other than a candidate, or his authorized committee, of compensation for the personal services of another person which are rendered to the candidate or committee without charge, but

(E) does not include—

(i) except as provided in subparagraph (D), the value of personal services rendered to or for the benefit of a candidate by an individual who receives no compensation for rendering such service to or for the benefit of the candidate, or

(ii) payments under section 9037.

(5) The term “matching payment account” means the Presidential Primary Matching Payment Account established under section 9037(a).