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**HOUSE BILL NO. 438**

Offered January 17, 1996

*A BILL to amend the Code of Virginia by adding in Chapter 9 of Title 24.2 an article numbered 4.1, consisting of sections numbered 24.2-928.1 through 24.2-928.6, and an article numbered 4.2, consisting of a section numbered 24.2-928.7, relating to campaign finance and practices reforms; campaign contribution limits; false campaign statements; penalties.*

Patron—Moore

Referred to Committee on Privileges and Elections

**Be it enacted by the General Assembly of Virginia:**

**1. That the Code of Virginia is amended by adding in Chapter 9 of Title 24.2 an article numbered 4.1, consisting of sections numbered 24.2-928.1 through 24.2-928.6, as follows:**

*Article 4.1.**Limits on Contributions.*

*§ 24.2-928.1. Limits on contributions to candidates for Governor, Lieutenant Governor, Attorney General, and the General Assembly.*

*A. The provisions of this article apply only to elections for Governor, Lieutenant Governor, Attorney General, and the General Assembly.*

*B. No person or political committee, other than a corporation, labor organization, or political party committee or political action committee, as defined in subsections H and I of this section, shall make contributions to a candidate for Governor, Lieutenant Governor, or Attorney General which, in the aggregate, exceed \$2,500 in value for any one candidate in any one election. No corporation, labor organization, political party committee, or political action committee shall make contributions to a candidate for Governor, Lieutenant Governor, or Attorney General which, in the aggregate, exceed \$5,000 in value for any one candidate in any one election.*

*C. No person or political committee, other than a corporation, labor organization, or political party committee or political action committee, as defined in subsections H and I of this section, shall make contributions to a candidate for the General Assembly which, in the aggregate, exceed \$1,000 in value for any one election. No corporation, labor organization, political party committee, or political action committee shall make contributions to a candidate for General Assembly which, in the aggregate, exceed \$2,500 in value for any one election.*

*D. No candidate shall solicit or accept any contribution in excess of the limits stated in this section.*

*E. The restrictions of this section shall not apply to:*

- 1. Contributions by the candidate to his own campaign; or*
- 2. Contributions by the candidate's spouse, children, parents, brothers, or sisters to the candidate's campaign.*

*F. The limits stated in this section for contributions by a corporation, labor organization, political party committee, or political action committee shall apply to contributions by an inaugural committee. The limits stated in this section for a person or political committee, other than a corporation, labor organization, political party committee or political action committee, shall apply to contributions by the campaign committee of a candidate to any other candidate.*

*G. For the purposes of this article, the term "candidate" means the candidate, the candidate's treasurer, and the candidate's campaign committee, and any contribution to the candidate's treasurer or campaign committee shall be deemed a contribution to the candidate.*

*H. For the purposes of this article, the term "political party committee" means the generally recognized organization which, according to the bylaws of the political party, is responsible for the daily operation of the party at the state, congressional district, county, city, or other district level, any generally recognized auxiliary group of a political party committee, and any legislative caucus committee. A "legislative caucus committee" means a committee controlled by the caucus of each political party of either or both houses of the General Assembly.*

*I. For the purposes of this article, the term "political action committee" means a political committee which receives contributions of twenty-five dollars or more from 100 or more individuals in the one-year period before the committee files an application with the State Board of Elections to qualify as a political action committee entitled to contribute the larger amounts stated in subsections B and C of this section. The Secretary of the State Board shall obtain information necessary to make the determination that a committee meets the requirements of this subsection and shall provide written certification of the fact to the committee. A political action committee certification is valid for two years. A candidate shall*

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HB438

60 not accept a political action committee contribution unless it is accompanied by a copy of the  
61 certification. All political action committees that do not meet the requirements of this subsection are  
62 subject to the campaign contribution limits applicable to any person under subsections B and C of this  
63 section.

64 J. For the purposes of applying the limits stated in this section, each primary, general, or special  
65 election, and each method of political party nomination other than a primary, shall constitute a separate  
66 election without regard to whether the candidate is opposed or unopposed in the election or nomination  
67 process. For any independent candidate, the period ending on the regular primary date for the office he  
68 is seeking shall be deemed to be one election and the period following the primary date shall be deemed  
69 to be a second election.

70 K. A contributor may designate all or a portion of a contribution made by him during the sixty days  
71 following the primary date as a contribution for the primary or other nominating method. Contributions  
72 made after the primary date shall be deemed contributions for the general or special election unless  
73 otherwise designated as provided in this subsection.

74 L. A candidate who is defeated in the primary or nomination process and has a campaign deficit  
75 may continue to accept contributions to retire the deficit subject to the limits applicable to the primary  
76 or nomination process.

77 M. The candidate shall report separately (i) contributions received prior to the primary date or  
78 designated for the primary or other nominating method pursuant to subsection K of this section and (ii)  
79 contributions received after the primary date and not so designated. Candidates may otherwise maintain  
80 records of receipts and expenditures for the campaign both before and after the primary date on a  
81 continuing basis.

82 N. Any contribution or portion thereof returned within sixty days after receipt shall not be deemed to  
83 be a contribution for purposes of applying the limits stated in this section.

84 § 24.2-928.2. Prohibition on indirect contributions.

85 For purposes of applying the contribution limits stated in § 24.2-928.1, all contributions made by a  
86 person, either directly or indirectly, to benefit a particular candidate, including any contributions which  
87 are in any way knowingly earmarked or otherwise directed through any other person, political  
88 committee, political party committee, or political action committee, shall be treated as contributions  
89 from such person to such candidate.

90 § 24.2-928.3. Aggregation of contributions.

91 For purposes of applying the contribution limits stated in § 24.2-928.1:

92 1. All contributions made by a person, political committee, or political action committee whose  
93 contribution or expenditure activity is financed, maintained, or controlled by the same corporation,  
94 labor organization, association, or any other person, including a parent, subsidiary, branch, division,  
95 department, or local unit of such corporation, labor organization, association, or any other person, or  
96 by any group of such persons shall be considered to be made by the same person, political committee,  
97 or political action committee. However, the contributions made by a statewide membership association  
98 or statewide labor organization or by a single political committee financed, maintained, or controlled by  
99 such statewide association or labor organization and the contributions made by a single member  
100 corporation or a single member labor organization or by a political committee sponsored by such  
101 member corporation or member labor organization shall not be considered to be made by the same  
102 person or political committee;

103 2. For entities not described in subdivision 1 of this section, two or more entities will be treated as a  
104 single entity sharing the same contribution limit if the entities (i) share the majority of members on their  
105 boards of directors and share two or more officers; (ii) are owned or controlled by the same majority  
106 shareholder or shareholders; (iii) are in a parent-subsidiary relationship; or (iv) have by-laws stating  
107 that one organization has the power to control the other; and

108 3. A candidate's campaign committee and a committee other than a candidate's campaign committee  
109 are treated as a single committee if the committees both have the candidate or a member of the  
110 candidate's immediate family as an officer. For the purposes of this subdivision, "immediate family"  
111 means the spouse, parent, child, or sibling of the candidate.

112 § 24.2-928.4. Attribution and aggregation of family contributions.

113 For purposes of applying the contribution limits stated in § 24.2-928.1:

114 1. Contributions by a husband and wife are considered separate contributions and not aggregated,  
115 and

116 2. Contributions by unemancipated children under eighteen years of age are considered contributions  
117 by their parents and attributed proportionately to each parent. Fifty percent of the contributions are  
118 attributed to each parent or, in the case of a single custodial parent, the total amount is attributed to  
119 the parent.

120 § 24.2-928.5. Restrictions on loans.

121 A loan is considered a contribution from the maker and the guarantor of the loan and is subject to

the contribution limits stated in § 24.2-928.1.

A loan to a candidate or the candidate's campaign committee must be by written agreement.

The proceeds of a loan made to a candidate will not be subject to the contribution limits stated in § 24.2-928.1 if the loan (i) is made by the candidate to his own campaign committee or (ii) is made by a commercial lending institution in the regular course of business and on the same terms ordinarily available to members of the public and is secured or guaranteed only by the candidate.

§ 24.2-928.6. Penalties.

In addition to the penalties provided in Article 5 (§ 24.2-929 et seq.) of this chapter, any candidate, who knowingly accepts any contribution in excess of the limits stated in § 24.2-928.1, shall be subject to a civil penalty equal to the excess amount accepted by him. This civil penalty shall be enforced as provided in § 24.2-929.

#### Article 4.2.

##### Fair Campaign Statements.

§ 24.2-928.7. False campaign statements; penalties.

A. It shall be unlawful for any person to sponsor with actual malice any campaign advertisement, radio or television statement, or writing that contains a false statement of material fact and that is intended to affect the outcome of any campaign for nomination or election to public office.

B. The following definitions shall apply for the purposes of this section:

"Actual malice" means to act with knowledge of falsity or with reckless disregard as to truth or falsity.

"Candidate" and "political party" have the meanings defined respectively in § 24.2-101.

"Person" and "political committee" have the meanings defined respectively in § 24.2-901.

"Sponsor" means the action by a candidate, political committee, political party committee, or person in paying for the advertisement or writing. If a person acts as an agent for another or is reimbursed by another for the payment, the original source of the payment is the person who sponsors the advertisement or writing.

"Writing" has the meaning defined in § 24.2-1014.

C. Any person who commits a violation of this section shall be guilty of a Class 1 misdemeanor.

**2. That the provisions of this act shall become effective on January 1, 1997, and be applicable to any contribution made on and after that date for any election to be held on or after January 1, 1997. The provisions of this act shall not be applicable to contributions made prior to January 1, 1997, and contributions made on and after January 1, 1997, shall not be aggregated with contributions made before that date for the purposes of this act. Any contribution received by a candidate on or after January 1, 1997, shall be deemed to have been made on or after that date.**