

105TH CONGRESS
2D SESSION

H. R. 4786

To amend the Federal Election Campaign Act of 1971 to require the deposit of certain contributions and donations to be returned to donors in a special account, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

OCTOBER 10, 1998

Mr. GEKAS introduced the following bill; which was referred to the Committee on House Oversight

A BILL

To amend the Federal Election Campaign Act of 1971 to require the deposit of certain contributions and donations to be returned to donors in a special account, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. DEPOSIT OF CERTAIN CONTRIBUTIONS AND**
4 **DONATIONS IN TREASURY ACCOUNT.**

5 (a) IN GENERAL.—Title III of the Federal Election
6 Campaign Act of 1971 (2 U.S.C. 431 et seq.) is amended
7 by adding at the end the following new section:

1 “TREATMENT OF CERTAIN CONTRIBUTIONS AND
2 DONATIONS TO BE RETURNED TO DONORS

3 “SEC. 323. (a) TRANSFER TO COMMISSION.—

4 “(1) IN GENERAL.—Notwithstanding any other
5 provision of this Act, if a political committee intends
6 to return any contribution or donation given to the
7 political committee, the committee shall transfer the
8 contribution or donation to the Commission if—

9 “(A) the contribution or donation is in an
10 amount equal to or greater than \$500 (other
11 than a contribution or donation returned within
12 60 days of receipt by the committee); or

13 “(B) the contribution or donation was
14 made in violation of section 315, 316, 317, 319,
15 or 320 (other than a contribution or donation
16 returned within 30 days of receipt by the com-
17 mittee).

18 “(2) INFORMATION INCLUDED WITH TRANS-
19 FERRED CONTRIBUTION OR DONATION.—A political
20 committee shall include with any contribution or do-
21 nation transferred under paragraph (1)—

22 “(A) a request that the Commission return
23 the contribution or donation to the person mak-
24 ing the contribution or donation; and

1 “(B) information regarding the cir-
2 cumstances surrounding the making of the con-
3 tribution or donation and any opinion of the po-
4 litical committee concerning whether the con-
5 tribution or donation may have been made in
6 violation of this Act.

7 “(3) ESTABLISHMENT OF ESCROW ACCOUNT.—

8 “(A) IN GENERAL.—The Commission shall
9 establish a single interest-bearing escrow ac-
10 count for deposit of amounts transferred under
11 paragraph (1).

12 “(B) DISPOSITION OF AMOUNTS RE-
13 CEIVED.—On receiving an amount from a polit-
14 ical committee under paragraph (1), the Com-
15 mission shall—

16 “(i) deposit the amount in the escrow
17 account established under subparagraph
18 (A); and

19 “(ii) notify the Attorney General and
20 the Commissioner of the Internal Revenue
21 Service of the receipt of the amount from
22 the political committee.

23 “(C) USE OF INTEREST.—Interest earned
24 on amounts in the escrow account established
25 under subparagraph (A) shall be applied or

1 used for the same purposes as the donation or
2 contribution on which it is earned.

3 “(4) TREATMENT OF RETURNED CONTRIBU-
4 TION OR DONATION AS A COMPLAINT.—The transfer
5 of any contribution or donation to the Commission
6 under this section shall be treated as the filing of a
7 complaint under section 309(a).

8 “(b) USE OF AMOUNTS PLACED IN ESCROW TO
9 COVER FINES AND PENALTIES.—The Commission or the
10 Attorney General may require any amount deposited in
11 the escrow account under subsection (a)(3) to be applied
12 toward the payment of any fine or penalty imposed under
13 this Act or title 18, United States Code, against the per-
14 son making the contribution or donation.

15 “(c) RETURN OF CONTRIBUTION OR DONATION
16 AFTER DEPOSIT IN ESCROW.—

17 “(1) IN GENERAL.—The Commission shall re-
18 turn a contribution or donation deposited in the es-
19 crow account under subsection (a)(3) to the person
20 making the contribution or donation if—

21 “(A) within 180 days after the date the
22 contribution or donation is transferred, the
23 Commission has not made a determination
24 under section 309(a)(2) that the Commission
25 has reason to believe whether that the making

1 of the contribution or donation was made in
2 violation of this Act; or

3 “(B)(i) the contribution or donation will
4 not be used to cover fines, penalties, or costs
5 pursuant to subsection (b); or

6 “(ii) if the contribution or donation will be
7 used for those purposes, that the amounts re-
8 quired for those purposes have been withdrawn
9 from the escrow account and subtracted from
10 the returnable contribution or donation.

11 “(2) NO EFFECT ON STATUS OF INVESTIGA-
12 TION.—The return of a contribution or donation by
13 the Commission under this subsection shall not be
14 construed as having an effect on the status of an in-
15 vestigation by the Commission or the Attorney Gen-
16 eral of the contribution or donation or the cir-
17 cumstances surrounding the contribution or dona-
18 tion, or on the ability of the Commission or the At-
19 torney General to take future actions with respect to
20 the contribution or donation.”.

21 (b) AMOUNTS USED TO DETERMINE AMOUNT OF
22 PENALTY FOR VIOLATION.—Section 309(a) of such Act
23 (2 U.S.C. 437g(a)) is amended by inserting after para-
24 graph (9) the following new paragraph:

1 “(10) For purposes of determining the amount of a
2 civil penalty imposed under this subsection for violations
3 of section 323, the amount of the donation involved shall
4 be treated as the amount of the contribution involved.”.

5 (c) DONATION DEFINED.—Section 301 of such Act
6 (2 U.S.C. 431) is amended by adding at the end the fol-
7 lowing:

8 “(20) DONATION.—The term ‘donation’ means a gift,
9 subscription, loan, advance, or deposit of money or any-
10 thing else of value made by any person to a national com-
11 mittee of a political party or a Senatorial or Congressional
12 Campaign Committee of a national political party for any
13 purpose, but does not include a contribution (as defined
14 in paragraph (8)).”.

15 (d) DISGORGEMENT AUTHORITY.—Section 309 of
16 such Act (2 U.S.C. 437g) is amended by adding at the
17 end the following new subsection:

18 “(e) Any conciliation agreement, civil action, or crimi-
19 nal action entered into or instituted under this section
20 may require a person to forfeit to the Treasury any con-
21 tribution, donation, or expenditure that is the subject of
22 the agreement or action for transfer to the Commission
23 for deposit in accordance with section 323.”.

24 (e) EFFECTIVE DATE.—The amendments made by
25 subsections (a), (b), and (c) shall apply to contributions

1 or donations refunded on or after the date of the enact-
2 ment of this Act, without regard to whether the Federal
3 Election Commission or Attorney General has issued regu-
4 lations to carry out section 323 of the Federal Election
5 Campaign Act of 1971 (as added by subsection (a)) by
6 such date.

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