

House Bill 370 (COMMITTEE SUBSTITUTE)

By: Representatives Fleming of the 121<sup>st</sup>, Wilkerson of the 38<sup>th</sup>, Fludd of the 64<sup>th</sup>, England of the 116<sup>th</sup>, Powell of the 32<sup>nd</sup>, and others

A BILL TO BE ENTITLED  
AN ACT

1 To amend Title 21 of the Official Code of Georgia Annotated, relating to elections, so as to  
2 provide that no person shall be eligible for or shall qualify for party nomination for or  
3 election to public office if such person or such person's campaign committee from a previous  
4 primary or election has certain outstanding late fees, fines, or penalties under the Ethics in  
5 Government Act; to provide for exceptions; to provide definitions; to provide for waivers of  
6 certain civil penalties and fees incurred by candidates for local elected office; to provide for  
7 exceptions; to provide for refunds of certain civil penalties and fees; to provide for an  
8 exception from contribution limitations for contributions or expenditures made by a party  
9 caucus of the House of Representatives or the Senate in support of a party ticket or a group  
10 of named candidates; to provide for related matters; to provide an effective date; to repeal  
11 conflicting laws; and for other purposes.

12 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

13 style="text-align:center">**SECTION 1.**

14 Title 21 of the Official Code of Georgia Annotated, relating to primaries and elections, is  
15 amended in Code Section 21-2-8, relating to eligibility for party nomination, public office,  
16 or performance of certain official acts of persons convicted and sentenced for certain crimes,  
17 illegally holding any public funds, and effect of disqualification of superintendent, by  
18 designating the existing text as subsection (a) and adding a new subsection to read as  
19 follows:

20 "(b) No person shall be eligible for or shall qualify for party nomination for or election to  
21 public office if such person or such person's campaign committee from any previous  
22 primary or election has outstanding late fees, fines, or penalties pursuant to paragraph (14)  
23 of subsection (b) of Code Section 21-5-6, Code Section 21-5-7.1, or subsection (k) of Code  
24 Section 21-5-34; provided, however, that, if such person or person's campaign committee  
25 has a pending request for a waiver under Code Section 21-5-7.2 or if such waiver or any

26 late fee, fine, or penalty has been appealed and such appeal is pending, such person shall  
 27 be permitted to qualify."

28 **SECTION 2.**

29 Said title is further amended in Code Section 21-5-3, relating to definitions, by revising  
 30 paragraph (12) and adding new paragraphs (5.1), (10.1), and (12.1) to read as follows:

31 "(5.1) 'Communication' means:

32 (A) A paid advertisement broadcast over radio, television, cable, or satellite;

33 (B) A paid placement of content on the Internet or other electronic communication  
 34 networks;

35 (C) A paid advertisement published in a periodical or on a billboard;

36 (D) Paid telephone communications that are directed to 100 or more households;

37 (E) Mailings that are sent or distributed to 100 or more households; or

38 (F) Printed materials that exceed 1,000 copies."

39 "(10.1) 'Election targeted issue advocacy' means any communication other than express  
 40 election advocacy made within 180 days of an election that:

41 (A) Refers to one or more clearly identified candidates in such election;

42 (B) Depicts the name, image, likeness, or voice of one or more clearly identified  
 43 candidates in such election;

44 (C) Refers to a political party or body having candidates on the ballot at such election;

45 or

46 (D) Refers to a constitutional amendment, referendum, or other question being  
 47 submitted to the voters in such election."

48 "(12) 'Expenditure' means a purchase, payment, distribution, loan, advance, deposit, or  
 49 any transfer of money or anything of value made for the purpose of influencing the  
 50 nomination for election or election of any person, bringing about the recall of a public  
 51 officer holding elective office or opposing the recall of a public officer holding elective  
 52 office, or the influencing of voter approval or rejection of a proposed constitutional  
 53 amendment, a state-wide referendum, or a proposed question which is to appear on the  
 54 ballot in this state or in a county or a municipal election in this state. The term  
 55 specifically shall not include the value of personal services performed by persons who  
 56 serve without compensation from any source and on a voluntary basis. The term  
 57 'expenditure' shall also include the payment of a qualifying fee for and on behalf of a  
 58 candidate. The term shall include the purchase of or payment for communications for  
 59 express election advocacy and election targeted issue advocacy.

60 (12.1) 'Express election advocacy' means any communication made at any time that:

61 (A) Contains express words, such as 'vote,' 'oppose,' 'support,' 'elect,' 'defeat,' or 'reject,'  
 62 which call for the nomination, election, or defeat of one or more clearly identified  
 63 candidates, the election or defeat of one or more political parties or bodies, or the  
 64 passage or defeat of one or more constitutional amendments, referenda, or other  
 65 questions submitted to the voters in any election; or

66 (B) Otherwise refers to or depicts one or more clearly identified candidates, political  
 67 parties or bodies, or constitutional amendments, referenda, or other questions submitted  
 68 to the voters in a manner that is susceptible to no reasonable interpretation other than  
 69 as a call for the nomination, election, or defeat of such candidates in an election, the  
 70 election or defeat of such political parties or bodies, or the passage or defeat of  
 71 constitutional amendments, referenda, or other questions submitted to the voters in any  
 72 election."

### 73 SECTION 3.

74 Said title is further amended by adding a new Code section to read as follows:

75 "21-5-7.2.

76 (a) Upon written request of a candidate or in a response by the candidate to any  
 77 notification from the commission alleging noncompliance with the provisions of this  
 78 chapter for filings required between January 1, 2010, and January 10, 2014, the  
 79 commission shall be authorized to waive late fees, fines, and civil penalties incurred by  
 80 candidates for public office for those offices defined in subparagraphs (F) and (G) of  
 81 paragraph (22) of Code Section 21-5-3 regarding the late, incomplete, or nonfiling of  
 82 campaign disclosure reports and personal financial disclosure reports. Such request or  
 83 response shall be filed not later than December 31, 2015.

84 (b) For candidates who paid late fees, fines, or civil penalties between January 1, 2014,  
 85 and the effective date of this Code section based upon alleged noncompliance with the  
 86 provisions of this chapter for filings required between January 1, 2010, and January 10,  
 87 2014, such candidates may make a written request to the commission for a waiver under  
 88 this Code section, and, if granted, the commission may refund such late fees, fines, and  
 89 civil penalties to the candidate and shall expunge all of the alleged violations which were  
 90 the basis of such late fees, fines, or civil penalties from the candidate's records. Such  
 91 request shall be filed not later than December 31, 2015.

92 (c) With regard to filings which were required under this chapter during the period  
 93 between January 1, 2010, and January 10, 2014, there shall be a rebuttable presumption  
 94 that all candidates for a public office for those offices defined in subparagraphs (F) and (G)  
 95 of paragraph (22) of Code Section 21-5-3 timely filed or attempted to file the required  
 96 reports but were unable to do so as a result of the problems with the commission's

97 computer system during such time period. Such rebuttable presumption may be overcome  
 98 by proof that such candidate knowingly and willfully refused to file the required report  
 99 during such period.

100 (d) The commission shall approve or deny each request for waiver within 12 months after  
 101 receipt of the request by the commission. If such request for a waiver is denied, the  
 102 candidate may, within 30 days following the candidate's receipt of notice of the denial,  
 103 demand a hearing on such request for a waiver before the Office of State Administrative  
 104 Hearings.

105 (e) In the event that the commission grants a waiver under this Code section and within  
 106 two years following the effective date of this Code section discovers evidence that the  
 107 person to whom such waiver was granted was guilty of knowingly and willfully refusing  
 108 to file the report or reports for which such waiver was granted, the commission may revoke  
 109 such waiver, reimpose all such late fees, fines, and penalties, and take such further actions  
 110 as the commission is authorized to do as if such waiver had never been granted."

111 **SECTION 4.**

112 Said title is further amended in Code Section 21-5-41, relating to maximum allowable  
 113 contributions, by revising subsection (j) as follows:

114 "(j) The contribution limitations provided for in this Code section shall not include  
 115 contributions or expenditures made by a political party or party caucus of the House of  
 116 Representatives or the Senate in support of a party ticket or a group of named candidates."

117 **SECTION 5.**

118 This Act shall become effective upon its approval by the Governor or upon its becoming law  
 119 without such approval.

120 **SECTION 6.**

121 All laws and parts of laws in conflict with this Act are repealed.