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1 A bill to be entitled

2 An act relating to elections; providing a popular name;
3 amending s. 106.011, F.S.; redefining the term
4 "communications media"; amending s. 106.11, F.S.;
5 extending the time for unopposed candidates to purchase
6 "thank you" advertising; amending s. 106.141, F.S.;
7 extending the date for unopposed candidates to file a
8 termination report, to conform; amending s. 106.1437,
9 F.S.; modifying reporting requirements for miscellaneous
10 advertisements intended to influence public policy;
11 prescribing prohibitions and exemptions; prescribing
12 penalties; providing for severability; providing an
13 effective date.

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15 Be It Enacted by the Legislature of the State of Florida:

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17 Section 1. This act shall be known by the popular name of
18 the "Florida Advertising Campaign Exposure Act."

19 Section 2. Subsection (13) of section 106.011, Florida
20 Statutes, is amended to read:

21 106.011 Definitions.--As used in this chapter, the
22 following terms have the following meanings unless the context
23 clearly indicates otherwise:

24 (13) "Communications media" means broadcasting stations,
25 newspapers, magazines, outdoor advertising facilities, printers,
26 direct mailing companies, advertising agencies, the Internet,
27 and telephone companies; but with respect to telephones, an
28 expenditure shall be deemed to be an expenditure for the use of
29 communications media only if made for the costs of telephones,
30 paid telephonists, or automatic telephone equipment to be used



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31 by a candidate or a political committee to communicate with
32 potential voters but excluding any costs of telephones incurred
33 by a volunteer for use of telephones by such volunteer.

34 Section 3. Subsection (5) of section 106.11, Florida
35 Statutes, is amended to read:

36 106.11 Expenses of and expenditures by candidates and
37 political committees.--Each candidate and each political
38 committee which designates a primary campaign depository
39 pursuant to s. 106.021(1) shall make expenditures from funds on
40 deposit in such primary campaign depository only in the
41 following manner, with the exception of expenditures made from
42 petty cash funds provided by s. 106.12:

43 (5) A candidate who withdraws his or her candidacy,
44 becomes an unopposed candidate, or is eliminated as a candidate
45 or elected to office may expend funds from the campaign account
46 to:

47 (a) Purchase "thank you" advertising for up to 75 days
48 after he or she withdraws, ~~becomes unopposed,~~ or is eliminated
49 or elected.

50 (b) Pay for items which were obligated before he or she
51 withdrew, became unopposed, or was eliminated or elected.

52 (c) Pay for expenditures necessary to close down the
53 campaign office and to prepare final campaign reports.

54 (d) Dispose of surplus funds as provided in s. 106.141.

55 Section 4. Subsection (1) of section 106.141, Florida
56 Statutes, is amended to read:

57 106.141 Disposition of surplus funds by candidates.--

58 (1) Each candidate who withdraws his or her candidacy,
59 ~~becomes an unopposed candidate, or~~ is eliminated as a candidate,
60 or is elected to office shall, no later than 90 days after such



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61 withdrawal, elimination, or election ~~within 90 days~~, dispose of
62 the funds on deposit in his or her campaign account and file a
63 report reflecting the disposition of all remaining funds. Such
64 candidate shall not accept any contributions, nor shall any
65 person accept contributions on behalf of such candidate, after
66 the candidate withdraws his or her candidacy, becomes an
67 unopposed candidate, or is eliminated or elected. However, if a
68 candidate receives a refund check after all surplus funds have
69 been disposed of, the check may be endorsed by the candidate and
70 the refund disposed of under this section. An amended report
71 must be filed showing the refund and subsequent disposition.

72 Section 5. Section 106.1437, Florida Statutes, is amended
73 to read:

74 106.1437 Miscellaneous advertisements.--

75 (1) As used in this section, the term:

76 (a) "Electioneering advertisement" means a paid expression
77 in any communications media prescribed in s. 106.011(13)
78 published on the day of any election or any of the preceding 29
79 days which names or depicts a candidate for office in that
80 election or which references a clearly identifiable ballot
81 measure in that election. Any advertisement that qualifies as an
82 independent expenditure pursuant to s. 106.011(5) or a political
83 advertisement pursuant to s. 106.011(17) is not an
84 electioneering advertisement for purposes of this section.

85 However, the term does not include:

86 1. A statement or depiction by an organization, in
87 existence prior to the time during which the candidate named or
88 depicted qualifies or the issue clearly referenced is placed on
89 the ballot for that election, made in that organization's



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90 newsletter, which newsletter is distributed only to members of
91 that organization.

92 2. An editorial endorsement by any newspaper, radio, or
93 television station or other recognized news medium.

94 (b) "Contribution" means:

95 1. A gift, subscription, conveyance, deposit, loan,
96 payment, or distribution of money or anything of value,
97 including contributions in kind having an attributable monetary
98 value in any form, made for the purpose of funding or sponsoring
99 an electioneering advertisement.

100 2. A transfer of funds between a political committee or a
101 committee or continuous existence and a person funding or
102 sponsoring an electioneering advertisement.

103 3. The payment, by any person other than a candidate or
104 political committee, of compensation for the personal services
105 of another person which are rendered to a person funding or
106 sponsoring an electioneering advertisement.

107 (c) "Expenditure" means a purchase, payment, distribution,
108 loan, advance, or gift of money or anything of value made for
109 the purpose of funding or sponsoring an electioneering
110 advertisement. However, the term does not include a purchase,
111 payment, distribution, loan, advance, or gift of money or
112 anything of value made for the purpose of funding or sponsoring
113 an electioneering advertisement when made by an organization, in
114 existence prior to the time during which a candidate qualifies
115 or a ballot measure is placed on the ballot for that election,
116 for the purpose of printing or distributing such organization's
117 newsletter, containing a statement by such organization in
118 support of or opposition to a candidate or ballot measure, which
119 newsletter is distributed only to members of such organization.



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120 (2) Each person that sponsors or funds an electioneering
121 advertisement must file regular reports of all contributions
122 received and all expenditures made by such person with the same
123 officer as a political committee supporting or opposing the
124 candidate named or depicted or the ballot measure referenced in
125 the advertisement. Such reports must contain the same
126 information and are subject to the same filing requirements as
127 reports required under s. 106.07 for candidates not receiving
128 public financing.

129 (3)(a) If the initial publication of the electioneering
130 advertisement occurs after the final regular report is due under
131 subsection (2) but prior to the closing of the polls on election
132 day, the person funding or sponsoring the advertisement must
133 file a report electronically with the division no later than 1
134 hour after the initial publication of the advertisement. The
135 report must contain the same information as required of a
136 candidate by s. 106.07(4). Upon receipt of the filing, the
137 division shall electronically transmit a confirmation of receipt
138 to the person filing the report. If the person is unable to file
139 electronically for any reason, a written report containing the
140 required information may be faxed or hand delivered to the
141 division no later than 1 hour after the initial publication of
142 the advertisement. However, if a report due to be filed under
143 this paragraph on a Saturday, Sunday, or legal holiday cannot be
144 electronically filed because of problems with Internet
145 communications, the report must be filed either electronically,
146 by facsimile, or by hand delivery with the division no later
147 than 10 a.m. on the next business day.

148 (b) The division shall adopt rules providing for
149 electronic filing which must, at a minimum, provide that:



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150 1. The division develop an electronic filing system using
151 the Internet or other on-line technologies; and

152 2. The system be reasonably secure and be designed to
153 elicit the name, address, birthdate, and any other information
154 necessary to authenticate the identity of the person submitting
155 the report.

156 (c) Information filed with the division pursuant to this
157 subsection must also be included on the next regular report
158 required under subsection (2).

159 (4)(a) The following persons shall be responsible for
160 filing the reports required in subsections (2) and (3), shall
161 certify as to the correctness of each report, and shall bear the
162 responsibility for the accuracy and veracity of each report:

163 1. The candidate and his or her campaign treasurer, if the
164 person funding or sponsoring the electioneering advertisement is
165 a candidate.

166 2. The committee chair and treasurer of the committee, if
167 the person funding or sponsoring the electioneering
168 advertisement is a political committee, committee of continuous
169 existence, or executive committee of a political party;

170 3. The individual, if the person funding or sponsoring the
171 electioneering advertisement is a natural person who is not a
172 candidate; or

173 4. An individual designated by the organization, if the
174 person funding or sponsoring the electioneering advertisement is
175 a group other than a political committee, committee of
176 continuous existence, or executive committee of a political
177 party. The name, address, and title of the designated individual
178 must be filed with the division in writing prior to, or
179 contemporaneous with, the filing of the initial report.



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181 Such a person is liable for violations of report filing
182 requirements to the same extent as candidates pursuant to ss.
183 106.07(5), 106.19, and 106.265.

184 (b) In addition to the penalties prescribed in paragraph
185 (a), the person funding or sponsoring an electioneering
186 advertisement and the person responsible for reporting pursuant
187 to this subsection shall be jointly and severally liable for
188 late filing fines assessed by the Florida Elections Commission
189 pursuant to s. 106.07(8). Any such person may appeal or dispute
190 the fine in accordance with the provisions of s. 106.07(8)(c).

191 (5)(a) Any electioneering advertisement must prominently
192 state, "Paid advertisement paid for or sponsored by ...(Name of
193 person funding or sponsoring the electioneering
194 advertisement)...," followed by the address of the person
195 funding or sponsoring the advertisement.

196 (b) The Florida Elections Commission is authorized upon
197 finding a violation of this subsection to impose a civil penalty
198 in the form of fines not to exceed \$5,000 or the total cost of
199 the advertisements without the proper disclaimer, whichever is
200 greater. In determining the amount of the penalty, the
201 commission must consider any mitigating or aggravating
202 circumstances prescribed in s. 106.265. This penalty shall
203 substitute for the penalties provided in s. 106.265, shall be
204 deposited into the General Revenue Fund of the state, and, if
205 necessary, shall be collected pursuant to s. 106.265(2).

206 (6) A person may not make a contribution through or in the
207 name of another, directly or indirectly, for the purpose of
208 funding an electioneering advertisement. ~~Any advertisement,~~
209 ~~other than a political advertisement, on billboards, bumper~~



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210 ~~stickers, radio, or television, or in a newspaper, a magazine,~~
211 ~~or a periodical, intended to influence public policy or the vote~~
212 ~~of a public official, shall clearly designate the sponsor of~~
213 ~~such advertisement by including a clearly readable statement of~~
214 ~~sponsorship. If the advertisement is broadcast on television,~~
215 ~~the advertisement shall also contain a verbal statement of~~
216 ~~sponsorship. This section shall not apply to an editorial~~
217 ~~endorsement.~~

218 Section 6. If any provision of this act or its application
219 to any person or circumstance is held invalid, the invalidity
220 does not affect other provisions or applications of the act
221 which can be given effect without the invalid provision or
222 application, and to this end the provisions of this act are
223 severable.

224 Section 7. This act shall take effect January 1, 2004.