

Notice of Proposed Rule

DEPARTMENT OF STATE

Division of Elections

RULE NO.: RULE TITLE:

1S-2.021 Cancellation of Registration of Political Committees and Electioneering Communications Organizations

PURPOSE AND EFFECT: to better align failure to file trigger for revocation with the reporting schedule, require a physical office space and hours of operation for registered agent, streamline notice process, and make clarifying changes.

SUMMARY: process for revocation of political committees and electioneering communications organizations.

SUMMARY OF STATEMENT OF ESTIMATED REGULATORY COSTS AND LEGISLATIVE RATIFICATION:

The Agency has determined that this will not have an adverse impact on small business or likely increase directly or indirectly regulatory costs in excess of \$200,000 in the aggregate within one year after the implementation of the rule. A SERC has not been prepared by the Agency.

The Agency has determined that the proposed rule is not expected to require legislative ratification based on the statement of estimated regulatory costs or if no SERC is required, the information expressly relied upon and described herein: This rule will not require legislative ratification pursuant to Section 120.541(3), F.S., because the rule applies only to election-related activities. Based upon past experiences with rules of this nature, this rule will not have an adverse effect on businesses or private-sector economic growth, job-creation, employment or investment; it is not likely to have an adverse impact on business competitiveness nor innovation in excess of the statutory threshold; nor will it increase regulatory costs in excess of the threshold mandating legislative ratification. No other statute requires legislative ratification for this rule.

Any person who wishes to provide information regarding a statement of estimated regulatory costs, or provide a proposal for a lower cost regulatory alternative must do so in writing within 21 days of this notice.

RULEMAKING AUTHORITY: 20.10(3), 97.012(1), 106.03(7), 106.22(9), F.S.

LAW IMPLEMENTED: 106.03, F.S.

IF REQUESTED WITHIN 21 DAYS OF THE DATE OF THIS NOTICE, A HEARING WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW (IF NOT REQUESTED, THIS HEARING WILL NOT BE HELD):

DATE AND TIME: January 4, 2022 at 2:00PM

PLACE: Heritage Hall, 500 S Bronough St., Tallahassee, FL, 32399 or 1(888)585-9008 (conference room number 201-297-717)

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 3 days before the workshop/meeting by contacting: Stephanie Buse at stephanie.buse@dos.myflorida.com or (850)245-6513. If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE IS: Ashley E. Davis at ashley.davis@dos.myflorida.com or (850)245-6531

THE FULL TEXT OF THE PROPOSED RULE IS:

1S-2.021 Cancellation of Registration of Political Committees and Electioneering Communications Organizations.

(1) Definitions:

(a) “Organization” means an electioneering communications organization.

(b) “Committee” means a political committee.

(c) “Limited activity,” means as used in this rule and section 106.03(7)(a), F.S., shall have the following meaning:

1. For a ~~political~~ committee, the committee's aggregate reported financial activity in each of two consecutive calendar years is \$500 or less, unless the committee is only registered and required to report as the sponsor of a proposed constitutional amendment by initiative who intended to seek the signatures of registered voters; and,

2. For an ~~electioneering communications~~ organization, the organization's aggregate reported financial activity in each of two consecutive calendar years is \$5,000 or less.

~~(d)(b)~~ "Most recent address on file" means, ~~as applicable, the last address provided in the most recent statement of appointment or a written statement of change filed to the filing officer for the committee or organization's registered agent pursuant to section 106.022, F.S., or the last address provided to the filing officer for the committee's chairperson or organization's top ranking official as contained in the statement of organization or in any written statement of change to the statement of organization made pursuant to section 106.03, F.S.~~

(2) Conduct warranting cancellation. The filing officer shall initiate the cancellation of the registration of a ~~political committee (hereinafter committee)~~ or an ~~electioneering communications~~ organization (~~hereinafter organization~~) for one or more of the following reasons:

(a) The committee or organization fails to maintain a registered office and a registered agent as required by section 106.022, F.S., including the failure to have a physical office space and hours of operation or if correspondence sent by the filing officer is returned as undeliverable;

(b) The committee or organization fails to file the appointment of a successor within 10 days after the death, resignation or removal of its treasurer;

(c) The committee fails to file the appointment of a successor within 10 days after the death, resignation or removal of its chairperson;

(d) The committee or organization fails to file 2 or more consecutive treasurers' reports for more than 6 months;

(e) The committee or organization has limited activity;

(f) The organization fails to file the appointment of a successor within 10 days after the death, resignation or removal of its top-ranking principal officer; or

(g) The committee or organization has an unpaid fine or civil penalty imposed under chapter 106, F.S., which has become final, meaning all appeals regarding the imposition of the fine or civil penalty have been exhausted or the time for such appeals has passed.

(3) Cancellation procedures.

(a) Initial notice of intent to cancel. The filing officer shall notify the committee's chairperson or organization's top-ranking principal officer and its registered agent of the intent to cancel the registration and include the facts and conduct which warrant the intended cancellation. The notice shall be sent to the most recent address on file for both the chairperson or top-ranking principal officer, as applicable, and registered agent. The initial notice shall state that all future notifications regarding cancellation of the committee's or organization's registration shall be sent only to the most recent address on file for the registered agent. The committee or organization has 1530 days from the date of the initial notice to provide additional documentation to the filing officer showing that the committee's or organization's registration should not be canceled.

(b) Final notice of intent to cancel. After receiving the documentation under paragraph (a), from the committee or organization or after the 1530-day deadline to provide additional information, whichever occurs first, the filing officer shall review all information and determine whether the registration should still be canceled.

1. If the filing officer determines that the registration should not be canceled, then the filing officer shall notify the registered agent at the most recent address on file.

2. If the filing officer determines that the registration should be canceled, then the filing officer shall send a final notice of intent to cancel to the most recent address on file for the registered agent.

(c) Notice returned as undeliverable. If the initial notices of intent to cancel ~~is~~ returned as undeliverable, and the committee or organization's most recent address on file has not changed since the filing officer sent the initial notices, then the filing officer need not send a final notice of intent to cancel and shall instead send the final order of cancellation. If the initial notices of intent to cancel ~~is~~ returned as undeliverable, but the committee or organization's most recent address on file has changed since the filing officer sent the initial notices, then the filing officer will provide an initial notice of the intent to cancel to that updated address; thereafter, the filing officer shall follow the procedures in this rule.

(d) Final order of cancellation. The final order of cancellation shall be sent to the most recent address on file for the registered agent, notwithstanding that the final order may be returned as undeliverable due to previous undelivered notices.

(4) Appeals. Appeal of Final Notice of Intent to Cancel. A committee or organization may appeal a final notice of intent to cancel within 30 days of the date of such final notice. The appeal may be accompanied by any documentation or evidence supporting the claim. The appeal must be filed with the filing officer. The filing officer will forward the appeal to the Florida Elections Commission.

(a) Failure to timely file an appeal shall constitute a waiver of any such entitlement.

(b) A committee or organization desiring a hearing before the Florida Elections Commission must include in the appeal a ~~separate~~ request for hearing.

(c) Appeals to the Florida Elections Commission under this rule are exempt from the confidentiality provisions of Section 106.25, F.S.

Rulemaking Authority 20.10(3), 97.012(1), 106.03(7), 106.22(9) FS. Law Implemented 106.03 FS. History—New 2-28-90, Amended 10-29-03, 11-15-09, 9-27-10, 10-30-13, 10-6-14, 8-4-16.

NAME OF PERSON ORIGINATING PROPOSED RULE: Maria Matthews, Director, Division of Elections

NAME OF AGENCY HEAD WHO APPROVED THE PROPOSED RULE: Laurel M. Lee, Secretary of State

DATE PROPOSED RULE APPROVED BY AGENCY HEAD: December 3, 2021

DATE NOTICE OF PROPOSED RULE DEVELOPMENT PUBLISHED IN FAR: November 17, 2021