

Calendar No. 392

109TH CONGRESS
2^D SESSION

H. R. 513

IN THE SENATE OF THE UNITED STATES

APRIL 6, 2006

Received; read twice and placed on the calendar

AN ACT

To amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, 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,*

1 **SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “527 Reform Act of
3 2006”.

4 **SEC. 2. TREATMENT OF SECTION 527 ORGANIZATIONS.**

5 (a) **DEFINITION OF POLITICAL COMMITTEE.**—Sec-
6 tion 301(4) of the Federal Election Campaign Act of 1971
7 (2 U.S.C. 431(4)) is amended—

8 (1) by striking the period at the end of sub-
9 paragraph (C) and inserting “; or”; and

10 (2) by adding at the end the following:

11 “(D) any applicable 527 organization.”.

12 (b) **DEFINITION OF APPLICABLE 527 ORGANIZA-**
13 **TION.**—Section 301 of such Act (2 U.S.C. 431) is amend-
14 ed by adding at the end the following new paragraph:

15 “(27) **APPLICABLE 527 ORGANIZATION.**—

16 “(A) **IN GENERAL.**—For purposes of paragraph
17 (4)(D), the term ‘applicable 527 organization’ means
18 a committee, club, association, or group of persons
19 that—

20 “(i) has given notice to the Secretary of
21 the Treasury under section 527(i) of the Inter-
22 nal Revenue Code of 1986 that it is to be treat-
23 ed as an organization described in section 527
24 of such Code; and

25 “(ii) is not described in subparagraph (B).

1 “(B) EXCEPTED ORGANIZATIONS.—A com-
2 mittee, club, association, or other group of persons
3 described in this subparagraph is—

4 “(i) an organization described in section
5 527(i)(5) of the Internal Revenue Code of
6 1986;

7 “(ii) an organization which is a committee,
8 club, association or other group of persons that
9 is organized, operated, and makes disburse-
10 ments exclusively for paying expenses described
11 in the last sentence of section 527(e)(2) of the
12 Internal Revenue Code of 1986 or expenses of
13 a newsletter fund described in section 527(g) of
14 such Code;

15 “(iii) an organization which is a com-
16 mittee, club, association, or other group that
17 consists solely of candidates for State or local
18 office, individuals holding State or local office,
19 or any combination of either, but only if the or-
20 ganization refers only to one or more non-Fed-
21 eral candidates or applicable State or local
22 issues in all of its voter drive activities and does
23 not refer to a Federal candidate or a political
24 party in any of its voter drive activities; or

1 “(iv) an organization described in subpara-
2 graph (C).

3 “(C) APPLICABLE ORGANIZATION.—For pur-
4 poses of subparagraph (B)(iv), an organization de-
5 scribed in this subparagraph is a committee, club,
6 association, or other group of persons whose election
7 or nomination activities relate exclusively to—

8 “(i) elections where no candidate for Fed-
9 eral office appears on the ballot; or

10 “(ii) one or more of the following purposes:

11 “(I) Influencing the selection, nomina-
12 tion, election, or appointment of one or
13 more candidates to non-Federal offices.

14 “(II) Influencing one or more applica-
15 ble State or local issues.

16 “(III) Influencing the selection, ap-
17 pointment, nomination, or confirmation of
18 one or more individuals to non-elected of-
19 fices.

20 “(D) EXCLUSIVITY TEST.—A committee, club,
21 association, or other group of persons shall not be
22 treated as meeting the exclusivity requirement of
23 subparagraph (C) if it makes disbursements aggre-
24 gating more than \$1,000 for any of the following:

1 “(i) A public communication that pro-
2 motes, supports, attacks, or opposes a clearly
3 identified candidate for Federal office during
4 the 1-year period ending on the date of the gen-
5 eral election for the office sought by the clearly
6 identified candidate (or, if a runoff election is
7 held with respect to such general election, on
8 the date of the runoff election).

9 “(ii) Any voter drive activity during a cal-
10 endar year, except that no disbursements for
11 any voter drive activity shall be taken into ac-
12 count under this subparagraph if the com-
13 mittee, club, association, or other group of per-
14 sons during such calendar year—

15 “(I) makes disbursements for voter
16 drive activities with respect to elections in
17 only 1 State and complies with all applica-
18 ble election laws of that State, including
19 laws related to registration and reporting
20 requirements and contribution limitations;

21 “(II) refers to one or more non-Fed-
22 eral candidates or applicable State or local
23 issues in all of its voter drive activities and
24 does not refer to any Federal candidate or

1 any political party in any of its voter drive
2 activities;

3 “(III) does not have a candidate for
4 Federal office, an individual who holds any
5 Federal office, a national political party, or
6 an agent of any of the foregoing, control or
7 materially participate in the direction of
8 the organization, solicit contributions to
9 the organization (other than funds which
10 are described under clauses (i) and (ii) of
11 section 323(e)(1)(B)), or direct disburse-
12 ments, in whole or in part, by the organi-
13 zation; and

14 “(IV) makes no contributions to Fed-
15 eral candidates.

16 “(E) CERTAIN REFERENCES TO FEDERAL CAN-
17 DIDATES NOT TAKEN INTO ACCOUNT.—For purposes
18 of subparagraphs (B)(iii) and (D)(ii)(II), a voter
19 drive activity shall not be treated as referring to a
20 clearly identified Federal candidate if the only ref-
21 erence to the candidate in the activity is—

22 “(i) a reference in connection with an elec-
23 tion for a non-Federal office in which such Fed-
24 eral candidate is also a candidate for such non-
25 Federal office; or

1 “(ii) a reference to the fact that the can-
2 didate has endorsed a non-Federal candidate or
3 has taken a position on an applicable State or
4 local issue, including a reference that con-
5 stitutes the endorsement or position itself.

6 “(F) CERTAIN REFERENCES TO POLITICAL
7 PARTIES NOT TAKEN INTO ACCOUNT.—For purposes
8 of subparagraphs (B)(iii) and (D)(ii)(II), a voter
9 drive activity shall not be treated as referring to a
10 political party if the only reference to the party in
11 the activity is—

12 “(i) a reference for the purpose of identi-
13 fying a non-Federal candidate;

14 “(ii) a reference for the purpose of identi-
15 fying the entity making the public communica-
16 tion or carrying out the voter drive activity; or

17 “(iii) a reference in a manner or context
18 that does not reflect support for or opposition
19 to a Federal candidate or candidates and does
20 reflect support for or opposition to a State or
21 local candidate or candidates or an applicable
22 State or local issue.

23 “(G) APPLICABLE STATE OR LOCAL ISSUE.—
24 For purposes of this paragraph, the term ‘applicable
25 State or local issue’ means any State or local ballot

1 initiative, State or local referendum, State or local
2 constitutional amendment, State or local bond issue,
3 or other State or local ballot issue.”.

4 (c) DEFINITION OF VOTER DRIVE ACTIVITY.—Sec-
5 tion 301 of such Act (2 U.S.C. 431), as amended by sub-
6 section (b), is further amended by adding at the end the
7 following new paragraph:

8 “(28) VOTER DRIVE ACTIVITY.—The term ‘voter
9 drive activity’ means any of the following activities con-
10 ducted in connection with an election in which a candidate
11 for Federal office appears on the ballot (regardless of
12 whether a candidate for State or local office also appears
13 on the ballot):

14 “(A) Voter registration activity.

15 “(B) Voter identification.

16 “(C) Get-out-the-vote activity.

17 “(D) Generic campaign activity.

18 “(E) Any public communication related to ac-
19 tivities described in subparagraphs (A) through (D).

20 Such term shall not include any activity described in sub-
21 paragraph (A) or (B) of section 316(b)(2).”.

1 **SEC. 3. RULES FOR ALLOCATION OF EXPENSES BETWEEN**
2 **FEDERAL AND NON-FEDERAL ACTIVITIES.**

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

6 **“SEC. 325. ALLOCATION AND FUNDING RULES FOR CER-**
7 **TAIN EXPENSES RELATING TO FEDERAL AND**
8 **NON-FEDERAL ACTIVITIES.**

9 “(a) IN GENERAL.—In the case of any disbursements
10 by any political committee that is a separate segregated
11 fund or nonconnected committee for which allocation rules
12 are provided under subsection (b)—

13 “(1) the disbursements shall be allocated be-
14 tween Federal and non-Federal accounts in accord-
15 ance with this section and regulations prescribed by
16 the Commission; and

17 “(2) in the case of disbursements allocated to
18 non-Federal accounts, may be paid only from a
19 qualified non-Federal account.

20 “(b) COSTS TO BE ALLOCATED AND ALLOCATION
21 RULES.—

22 “(1) IN GENERAL.—Disbursements by any sep-
23 arate segregated fund or nonconnected committee,
24 other than an organization described in section
25 323(b)(1), for any of the following categories of ac-
26 tivity shall be allocated as follows:

1 “(A) 100 percent of the expenses for public
2 communications or voter drive activities that
3 refer to one or more clearly identified Federal
4 candidates, but do not refer to any clearly iden-
5 tified non-Federal candidates, shall be paid with
6 funds from a Federal account, without regard
7 to whether the communication refers to a polit-
8 ical party.

9 “(B) At least 50 percent, or a greater per-
10 centage if the Commission so determines by
11 regulation, of the expenses for public commu-
12 nications and voter drive activities that refer to
13 one or more clearly identified candidates for
14 Federal office and one or more clearly identified
15 non-Federal candidates shall be paid with funds
16 from a Federal account, without regard to
17 whether the communication refers to a political
18 party.

19 “(C) At least 50 percent, or a greater per-
20 centage if the Commission so determines by
21 regulation, of the expenses for public commu-
22 nications or voter drive activities that refer to
23 a political party, but do not refer to any clearly
24 identified Federal or non-Federal candidate,
25 shall be paid with funds from a Federal ac-

1 count, except that this paragraph shall not
2 apply to communications or activities that re-
3 late exclusively to elections where no candidate
4 for Federal office appears on the ballot.

5 “(D) At least 50 percent, or a greater per-
6 centage if the Commission so determines by
7 regulation, of the expenses for public commu-
8 nications or voter drive activities that refer to
9 a political party and refer to one or more clear-
10 ly identified non-Federal candidates, but do not
11 refer to any clearly identified Federal can-
12 didates, shall be paid with funds from a Federal
13 account, except that this paragraph shall not
14 apply to communications or activities that re-
15 late exclusively to elections where no candidate
16 for Federal office appears on the ballot.

17 “(E) Unless otherwise determined by the
18 Commission in its regulations, at least 50 per-
19 cent of any administrative expenses, including
20 rent, utilities, office supplies, and salaries not
21 attributable to a clearly identified candidate,
22 shall be paid with funds from a Federal ac-
23 count, except that for a separate segregated
24 fund such expenses may be paid instead by its
25 connected organization.

1 “(F) At least 50 percent, or a greater per-
2 centage if the Commission so determines by
3 regulation, of the direct costs of a fundraising
4 program or event, including disbursements for
5 solicitation of funds and for planning and ad-
6 ministration of actual fundraising events, where
7 Federal and non-Federal funds are collected
8 through such program or event shall be paid
9 with funds from a Federal account, except that
10 for a separate segregated fund such costs may
11 be paid instead by its connected organization.
12 This paragraph shall not apply to any fund-
13 raising solicitations or any other activity that
14 constitutes a public communication.

15 “(2) CERTAIN REFERENCES TO FEDERAL CAN-
16 DIDATES NOT TAKEN INTO ACCOUNT.—For purposes
17 of paragraph (1), a public communication or voter
18 drive activity shall not be treated as referring to a
19 clearly identified Federal candidate if the only ref-
20 erence to the candidate in the communication or ac-
21 tivity is—

22 “(A) a reference in connection with an
23 election for a non-Federal office in which such
24 Federal candidate is also a candidate for such
25 non-Federal office; or

1 “(B) a reference to the fact that the can-
2 didate has endorsed a non-Federal candidate or
3 has taken a position on an applicable State or
4 local issue (as defined in section 301(27)(G)),
5 including a reference that constitutes the en-
6 dorsement or position itself.

7 “(3) CERTAIN REFERENCES TO POLITICAL PAR-
8 TIES NOT TAKEN INTO ACCOUNT.—For purposes of
9 paragraph (1), a public communication or voter
10 drive activity shall not be treated as referring to a
11 political party if the only reference to the party in
12 the communication or activity is—

13 “(A) a reference for the purpose of identi-
14 fying a non-Federal candidate;

15 “(B) a reference for the purpose of identi-
16 fying the entity making the public communica-
17 tion or carrying out the voter drive activity; or

18 “(C) a reference in a manner or context
19 that does not reflect support for or opposition
20 to a Federal candidate or candidates and does
21 reflect support for or opposition to a State or
22 local candidate or candidates or an applicable
23 State or local issue.

24 “(c) QUALIFIED NON-FEDERAL ACCOUNT.—

1 “(1) IN GENERAL.—For purposes of this sec-
2 tion, the term ‘qualified non-Federal account’ means
3 an account which consists solely of amounts—

4 “(A) that, subject to the limitations of
5 paragraphs (2) and (3), are raised by the sepa-
6 rate segregated fund or nonconnected com-
7 mittee only from individuals, and

8 “(B) with respect to which all require-
9 ments of Federal, State, or local law (including
10 any law relating to contribution limits) are met.

11 “(2) LIMITATION ON INDIVIDUAL DONA-
12 TIONS.—

13 “(A) IN GENERAL.—A separate segregated
14 fund or nonconnected committee may not ac-
15 cept more than \$25,000 in funds for its quali-
16 fied non-Federal account from any one indi-
17 vidual in any calendar year.

18 “(B) AFFILIATION.—For purposes of this
19 paragraph, all qualified non-Federal accounts of
20 separate segregated funds or nonconnected
21 committees which are directly or indirectly es-
22 tablished, financed, maintained, or controlled by
23 the same person or persons shall be treated as
24 one account.

25 “(3) FUNDRAISING LIMITATION.—

1 “(A) IN GENERAL.—No donation to a
2 qualified non-Federal account may be solicited,
3 received, directed, transferred, or spent by or in
4 the name of any person described in subsection
5 (a) or (e) of section 323.

6 “(B) FUNDS NOT TREATED AS SUBJECT
7 TO ACT.—Except as provided in subsection
8 (a)(2) and this subsection, any funds raised for
9 a qualified non-Federal account in accordance
10 with the requirements of this section shall not
11 be considered funds subject to the limitations,
12 prohibitions, and reporting requirements of this
13 Act for any purpose (including for purposes of
14 subsection (a) or (e) of section 323 or sub-
15 section (d)(1) of this section).

16 “(d) DEFINITIONS.—

17 “(1) FEDERAL ACCOUNT.—The term ‘Federal
18 account’ means an account which consists solely of
19 contributions subject to the limitations, prohibitions,
20 and reporting requirements of this Act. Nothing in
21 this section or in section 323(b)(2)(B)(iii) shall be
22 construed to infer that a limit other than the limit
23 under section 315(a)(1)(C) applies to contributions
24 to the account.

1 “(2) NONCONNECTED COMMITTEE.—The term
2 ‘nonconnected committee’ shall not include a polit-
3 ical committee of a political party.

4 “(3) VOTER DRIVE ACTIVITY.—The term ‘voter
5 drive activity’ has the meaning given such term in
6 section 301(28).”.

7 (b) REPORTING REQUIREMENTS.—Section 304(e) of
8 the Federal Election Campaign Act of 1971 (2 U.S.C.
9 434(e)) is amended—

10 (1) by redesignating paragraphs (3) and (4) as
11 paragraphs (4) and (5); and

12 (2) by inserting after paragraph (2) the fol-
13 lowing new paragraph:

14 “(3) RECEIPTS AND DISBURSEMENTS FROM
15 QUALIFIED NON-FEDERAL ACCOUNTS.—In addition
16 to any other reporting requirement applicable under
17 this Act, a political committee to which section
18 325(a) applies shall report all receipts and disburse-
19 ments from a qualified non-Federal account (as de-
20 fined in section 325(c)).”.

1 **SEC. 4. REPEAL OF LIMIT ON AMOUNT OF PARTY EXPENDI-**
2 **TURES ON BEHALF OF CANDIDATES IN GEN-**
3 **ERAL ELECTIONS.**

4 (a) REPEAL OF LIMIT.—Section 315(d) of the Fed-
5 eral Election Campaign Act of 1971 (2 U.S.C. 441a(d))
6 is amended—

7 (1) in paragraph (1)—

8 (A) by striking “(1) Notwithstanding any
9 other provision of law with respect to limita-
10 tions on expenditures or limitations on con-
11 tributions, the national committee” and insert-
12 ing “Notwithstanding any other provision of
13 law with respect to limitations on amounts of
14 expenditures or contributions, a national com-
15 mittee”,

16 (B) by striking “the general” and inserting
17 “any”, and

18 (C) by striking “Federal office, subject to
19 the limitations contained in paragraphs (2), (3),
20 and (4) of this subsection” and inserting “Fed-
21 eral office in any amount”; and

22 (2) by striking paragraphs (2), (3), and (4).

23 (b) CONFORMING AMENDMENTS.—

24 (1) INDEXING.—Section 315(c) of such Act (2
25 U.S.C. 441a(c)) is amended—

1 (A) in paragraph (1)(B)(i), by striking
2 “(d),”; and

3 (B) in paragraph (2)(B)(i), by striking
4 “subsections (b) and (d)” and inserting “sub-
5 section (b)”.

6 (2) INCREASE IN LIMITS FOR SENATE CAN-
7 DIDATES FACING WEALTHY OPPONENTS.—Section
8 315(i) of such Act (2 U.S.C. 441a(i)(1)) is amend-
9 ed—

10 (A) in paragraph (1)(C)(iii)—

11 (i) by adding “and” at the end of sub-
12 clause (I),

13 (ii) in subclause (II), by striking “;
14 and” and inserting a period, and

15 (iii) by striking subclause (III);

16 (B) in paragraph (2)(A) in the matter pre-
17 ceding clause (i), by striking “, and a party
18 committee shall not make any expenditure,”;

19 (C) in paragraph (2)(A)(ii), by striking
20 “and party expenditures previously made”; and

21 (D) in paragraph (2)(B), by striking “and
22 a party shall not make any expenditure”.

23 (3) INCREASE IN LIMITS FOR HOUSE CAN-
24 DIDATES FACING WEALTHY OPPONENTS.—Section

1 315A(a) of such Act (2 U.S.C. 441a–1(a)) is amend-
2 ed—

3 (A) in paragraph (1)—

4 (i) by adding “and” at the end of sub-
5 paragraph (A),

6 (ii) in subparagraph (B), by striking
7 “; and” and inserting a period, and

8 (iii) by striking subparagraph (C);

9 (B) in paragraph (3)(A) in the matter pre-
10 ceeding clause (i), by striking “, and a party
11 committee shall not make any expenditure,”;

12 (C) in paragraph (3)(A)(ii), by striking
13 “and party expenditures previously made”; and

14 (D) in paragraph (3)(B), by striking “and
15 a party shall not make any expenditure”.

16 **SEC. 5. CONSTRUCTION.**

17 No provision of this Act, or amendment made by this
18 Act, shall be construed—

19 (1) as approving, ratifying, or endorsing a regu-
20 lation promulgated by the Federal Election Commis-
21 sion;

22 (2) as establishing, modifying, or otherwise af-
23 fecting the definition of political organization for
24 purposes of the Internal Revenue Code of 1986; or

1 (3) as affecting the determination of whether a
2 group organized under section 501(c) of the Internal
3 Revenue Code of 1986 is a political committee under
4 section 301(4) of the Federal Election Campaign
5 Act of 1971.

6 **SEC. 6. JUDICIAL REVIEW.**

7 (a) SPECIAL RULES FOR ACTIONS BROUGHT ON
8 CONSTITUTIONAL GROUNDS.—If any action is brought for
9 declaratory or injunctive relief to challenge the constitu-
10 tionality of any provision of this Act or any amendment
11 made by this Act, the following rules shall apply:

12 (1) The action shall be filed in the United
13 States District Court for the District of Columbia
14 and shall be heard by a 3-judge court convened pur-
15 suant to section 2284 of title 28, United States
16 Code.

17 (2) A copy of the complaint shall be delivered
18 promptly to the Clerk of the House of Representa-
19 tives and the Secretary of the Senate.

20 (3) A final decision in the action shall be re-
21 viewable only by appeal directly to the Supreme
22 Court of the United States. Such appeal shall be
23 taken by the filing of a notice of appeal within 10
24 days, and the filing of a jurisdictional statement
25 within 30 days, of the entry of the final decision.

1 (4) It shall be the duty of the United States
2 District Court for the District of Columbia and the
3 Supreme Court of the United States to advance on
4 the docket and to expedite to the greatest possible
5 extent the disposition of the action and appeal.

6 (b) INTERVENTION BY MEMBERS OF CONGRESS.—In
7 any action in which the constitutionality of any provision
8 of this Act or any amendment made by this Act is raised
9 (including but not limited to an action described in sub-
10 section (a)), any Member of the House of Representatives
11 (including a Delegate or Resident Commissioner to Con-
12 gress) or Senate shall have the right to intervene either
13 in support of or opposition to the position of a party to
14 the case regarding the constitutionality of the provision
15 or amendment. To avoid duplication of efforts and reduce
16 the burdens placed on the parties to the action, the court
17 in any such action may make such orders as it considers
18 necessary, including orders to require intervenors taking
19 similar positions to file joint papers or to be represented
20 by a single attorney at oral argument.

21 (c) CHALLENGE BY MEMBERS OF CONGRESS.—Any
22 Member of Congress may bring an action, subject to the
23 special rules described in subsection (a), for declaratory
24 or injunctive relief to challenge the constitutionality of any
25 provision of this Act or any amendment made by this Act.

1 (d) APPLICABILITY.—

2 (1) INITIAL CLAIMS.—With respect to any ac-
3 tion initially filed on or before December 31, 2008,
4 the provisions of subsection (a) shall apply with re-
5 spect to each action described in such subsection.

6 (2) SUBSEQUENT ACTIONS.—With respect to
7 any action initially filed after December 31, 2008,
8 the provisions of subsection (a) shall not apply to
9 any action described in such subsection unless the
10 person filing such action elects such provisions to
11 apply to the action.

12 **SEC. 7. EFFECTIVE DATE.**

13 The amendments made by this Act shall take effect
14 on the date of the enactment of this Act.

Passed the House of Representatives April 5, 2006.

Attest:

KAREN L. HAAS,

Clerk.

Calendar No. 392

109TH CONGRESS
2^D SESSION

H. R. 513

AN ACT

To amend the Federal Election Campaign Act of 1971 to clarify when organizations described in section 527 of the Internal Revenue Code of 1986 must register as political committees, and for other purposes.

APRIL 6, 2006

Received; read twice and placed on the calendar