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2 Councilmember Charles Allen

Councilmember Elissa Silverman

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7 Councilmember Mary Cheh

Councilmember Brianne K Nadeau

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16 A BILL
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22 IN THE COUNCIL OF THE DISTRICT OF COLUMBIA
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27 To amend the Board of Ethics and Government Accountability Establishment and
28 Comprehensive Ethics Reform Amendment Act of 2011 to clarify when candidates or
29 public officeholders are considered to control or coordinate with election-related
30 committees and to specify that only individuals may contribute to political committees
31 and constituent-service programs.
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33 BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this
34 act may be cited as the “Clean Elections Amendment Act 2015”.

35 Sec. 2. The Board of Ethics and Government Accountability Establishment and
36 Comprehensive Ethics Reform Amendment Act of 2011, effective April 27, 2012 (D.C. Law 19-
37 124; D.C. Official Code § 1-1161.01 *et seq.*), is amended as follows:

38 (a) Section 101 (D.C. Official Code § 1-1161.01) is amended as follows:

39 (1) Paragraph (10)(A) is amended by adding a new subsubparagraph (iv) to read
40 as follows:

41 “(iv) Except as provided in subparagraph (B) of this paragraph, an
42 expenditure that is made by a person controlled by or that is coordinated with a candidate or
43 committee is considered a contribution to that candidate or committee.”

44 (2) Paragraph (10A) is amended to read as follows:

45 “(10A) “Control” or “controlling interest” means the practical ability to direct or
46 cause to be directed the financial management policies, fundraising activities, or expenditures of
47 an entity or acting in a manner that creates the appearance thereof. An ownership interest of 51%
48 shall constitute a rebuttable presumption of control.”

49 (3) Paragraph (10B) is amended to read as follows:

50 “(10B)(A) "Coordinate" or "coordination" means to take an action, including
51 making an expenditure or soliciting or receiving a contribution:

52 “(i) At the request, suggestion, or direction of or with express prior
53 consent of a candidate or public official, a political committee affiliated with a candidate or
54 public official, or an agent of a candidate or public official or of a political committee affiliated
55 with the candidate or public official.

56 “(ii) With the material involvement of a candidate or public
57 official, a political committee affiliated with a candidate or public official, or an agent of a
58 candidate or public official or of a political committee affiliated with a candidate or public
59 official.

60 “(B) An expenditure or contribution is coordinated if it is for a
61 communication that is created, produced or disseminated after the candidate or political
62 committee has made or participated in making any decision regarding the content, timing,
63 location, mode, intended audience, volume of distribution, or frequency of placing the

64 communication or after discussion between the a creator, producer, or distributor of the
65 communication, or the person paying for that communication, and the candidate or committee
66 regarding the content, timing, location, mode, intended audience, volume of distribution, or
67 frequency of placing the communication.

68 “(C) There is a rebuttable presumption that an expenditure or contribution
69 is coordinated if it is:

70 “(i) Based on information about the candidate’s or political
71 committee’s campaign needs or plans that the candidate or committee provided to the other party
72 directly or indirectly, such as information concerning campaign messaging, planned
73 expenditures, or polling data;

74 “(ii) By or through any agent of the candidate or committee in the
75 course of the agent’s involvement in the current campaign, beginning 12 months prior to the date
76 of the primary or special election in which the candidate is on the ballot for an elective office and
77 ending on the date of the general or special runoff election for that office;

78 “(iii) By a person making an expenditure or soliciting or receiving
79 a contribution for a communication relating to a clearly identified candidate who retains the
80 services of a person who provides either the candidate or the candidate’s principal campaign
81 committee with professional services related to campaign or fundraising strategy for the current
82 campaign.

83 “(iv) For a communication that replicates, reproduces, republishes
84 or disseminates, in whole or in substantial part, a communication, including video footage,
85 designed, produced, or paid for by the candidate or committee.

86 “(v) By a committee established, run, or staffed in a leadership
87 role, by an individual who previously worked in a senior position or advisory capacity on the
88 candidate’s or officeholder’s staff within the current campaign or who is an immediate family
89 member of the candidate.

90 “(C) An expenditure is not considered to be coordinated with a candidate
91 or committee based solely on any of the following circumstances:

92 “(i) A person interviews a candidate on issues affecting the person
93 making the expenditure;

94 “(ii) The person making the expenditure has obtained a
95 photograph, biography, position paper, or press release from the candidate or the candidate’s
96 agents;

97 “(iii) The person making the expenditure has made a contribution
98 to the candidate or committee;

99 “(iv) The person making the expenditure is responding to a
100 general, non-specific request for support by a candidate or committee; provided, that there is no
101 discussion with the candidate or committee prior to the expenditure relating to details of the
102 expenditure;

103 “(v) The person making the expenditures has invited the candidate
104 or committee to make an appearance before the person’s members, employees, shareholders, or
105 the families thereof; provided, that there is no discussion with the candidate or committee prior
106 to the expenditure relating to details of the expenditure;

107 “(vi) A person informs a candidate or committee that the person
108 has made an expenditure; provided, that there is no other exchange of information that is not
109 otherwise available to the public relating to details of the expenditure; or

110 “(vii) The communication includes a hyperlink to the Internet
111 website or other social media page of a candidate.”

112 (3) Paragraph (33A) is amended by striking the phrase “timing of the expenditure,
113 or making any express or implied solicitation of the expenditure” and inserting the phrase
114 “timing of the expenditure or contribution, or making any express or implied solicitation of the
115 expenditure or contribution” in its place.

116 (b) Section 313(a)(2) (D.C. Official Code § 1-1163.13(a)(2)) is amended by striking the
117 phrase “has made no contributions or transfer of funds to any public official” and inserting the
118 phrase “is not controlled by, has not coordinated with, and has made no contributions or transfer
119 of funds to any public official” in its place.

120 (c) The lead-in language of Section 333(a) (D.C. Official Code § 1-1163.33(a)) is
121 amended to read as follows:

122 “(a) It shall be unlawful for any person other than an individual to make any contribution
123 to a political committee or constituent-service program. In addition, no contributor may make
124 any contribution, and no person may receive any contribution from any contributor, that when
125 aggregated with all other contributions received from that contributor relating to a campaign for
126 nomination as a candidate or election to public office, including both the primary and general
127 election or special elections, exceeds:”

128 Sec. 3. Fiscal impact statement.

129 The Council adopts the fiscal impact statement in the committee report as the fiscal
130 impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act,
131 approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

132 Sec. 4. Effective date.

133 This act shall take effect following approval by the Mayor (or in the event of veto by the
134 Mayor, action by the Council to override the veto), a 30-day period of congressional review as
135 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
136 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)) and publication in the District of
137 Columbia Register.