State of Rhode Island and Providence Plantations
Rhode Island Board of Elections

Public Notice of Proposed Rule-Making

Pursuant to the provisions of Title 17 of the General Laws of Rhode Island, and in accordance with the Administrative Procedures Act Chapter 42-35 of the General Laws, the Rhode Island Board of Elections hereby gives notice of its intent to amend the following; Rules and Regulations the Appealing of Late Fines.

The purpose of this amendment is to clarify and expand upon R.I.G.L. § 17-25-11(g) and 17-25.2-5(d). The amendment adds a line to the end of the second paragraph in section 4 expanding on the procedures the Board of Elections can use to collect late fines and set full or partial waivers for late fines.

The proposed Rules and Regulations are available for public inspection online at www.elections.ri.gov, in person at the Rhode Island Board of Elections, 50 Branch Ave. Providence, R.I. 02904, requested by email at GMcBurney@elections.ri.gov or by calling Gregory McBurney at 401-222-1914.

In the development of the proposed amendment consideration was given to: (1) alternative approaches; (2) overlap or duplication with other statutory and regulatory provisions; and (3) significant economic impact on small business. No alternative approach, duplication, or overlap was identified based upon available information.

All interested parties are invited to submit written or oral comments concerning the amended regulations by 7/13/2010 to Robert Kando, Rhode Island Board of Elections, 50 Branch Ave. Providence, R.I. 02904, 401-222-2345, Feedback@elections.ri.gov. A public hearing to consider the proposed amendment shall be held on 7/13/2010 at 4:00 p.m. at 50 Branch Ave. Providence, R.I. 02904 at which time and place all persons interested will be heard. The room is accessible to the disabled and interpreter services for the hearing impaired will be provided if requested 48 hours prior to the hearing. Requests for this service can be made in writing or by calling 401-222-2345.

State of Rhode Island and Providence Plantations
Board of Elections

Concise Summary of Proposed Non-technical Amendments
To
RULES AND REGULATIONS FOR THE APPEALING OF LATE FINES

In accordance with the Administrative Procedures Act, Section 42-35-3(a)(1) of the General Laws of Rhode Island, the following is a concise summary of proposed non-technical amendments:

Cover – Added date of amendment.

Section 4 – Added a line to the end of the second paragraph expanding on the procedures the Board of Elections can use to collect late fines and set full or partial waivers for late fines.

RULES AND REGULATIONS
FOR THE APPEALING OF LATE FINES

As Amended:

5/19/2010
7/13/2010

PROPOSED

Promulgated by order of
The Rhode Island State Board of Elections
John A. Daluz, Chairman

RULES & REGULATIONS FOR THE APPEAL OF LATE FILING FINES ADOPTED BY THE RHODE ISLAND BOARD OF ELECTIONS

The Rhode Island Board of Elections hereby amends rules and regulations relating to contributions and expenditures reporting pursuant to and in accordance with R.I. Gen. Laws § 17-25-11(g) and 17-25.2-5(d).

Said rules and regulations are amended pursuant to the Administrative Procedures Act (R.I.G.L. § 42-35 et seq.) and are available for public inspection at the offices of the Rhode Island Board of Elections, 50 Branch Avenue, Providence, Rhode Island.

Section 1. Purpose

This rule is adopted by the Board of Elections for the purpose of clarifying and expanding upon R.I.G.L. § 17-25-11(g) and 17-25.2-5(d).

Section 2. Definitions

"Filer" means any candidate, committee, or person required to file Campaign Finance Reports pursuant to R.I.G.L. § 17-25-11 and 17-25.2-5.

"Supervisory Staff" means the Board of Elections' Executive Director, Director of Campaign Finance, or their designees.

Section 3. Contesting Late Filing Fines

When the Board of Elections assesses a Filer with a fine for failure to file reports under R.I.G.L. § 17-25-11(g)(2) or 17-25.2-5(d)(2), and the Filer is subsequently notified by certified mail of the imposition of the fine, then the Filer may appeal the fine on grounds that the fine was incorrectly imposed within thirty (30) days of receipt of notice of the non-compliance or in the event that the notice is not claimed, within forty-five (45) days of the date on which the notice was sent. A failure to file a timely appeal shall be deemed an admission. Requests for appeals must be in accordance with the Rules of Practice and Procedure in Adjudicatory Hearings before the Rhode Island Board of Elections.

Nothing in this section shall prohibit the Board of Elections from acting on its own motion to waive any fines or fees imposed.

Section 4. Waiver of Late Filing Fines – For Good Cause Shown

Filers seeking waivers of fines or fees imposed under R.I.G.L. § 17-25-11(g) or 17-25.2-5(d) may request a waiver by the Board of Elections for good cause shown within sixty (60) days of receipt of notice of the non-compliance or if the notice is not

claimed, within seventy-five (75) days of the date on which the notice was sent. Waivers may only be considered if there are no reports past due. All waiver requests must be submitted either in writing or electronically and contain the Filer's name, address, a statement specifying the fines and fees to be waived, and cause for the late filing.

The Board of Elections hereby authorizes its Supervisory Staff to administratively review and act upon all requests, including setting conditions for any full or partial waivers, where the amount of fines and fees do not exceed five thousand dollars ($5,000). Waiver requests where the amount of fines exceed five thousand dollars ($5,000) will ~~automatically~~ be submitted to the Board for public hearing~~.~~, provided however, that the Board hereby authorizes its legal counsel to take whatever action is available under the law to collect any outstanding penalties and, with the consent of the Board's Supervisory Staff, to set conditions for any full or partial waivers.

Filers may appeal the Supervisory Staff's decision on any waiver request for a de novo public hearing to the Board of Elections within forty-five (45) days of the date of the notice, which shall contain a statement of the Filer's right of appeal. All requests for a hearing must be in writing and in compliance with the Rules of Practice and Procedure in Adjudicatory Hearings before the Rhode Island Board of Elections.

Nothing in this section shall prohibit the Board of Elections from acting on its own motion to waive any fines or fees imposed.

Section 5. Applicability – Prior Fines and Fees

All fines and fees due prior to the adoption of this regulation are hereby subject to this regulation. All the rights and periods of waiver and appeal stated herein shall commence with the date of adoption of this regulation. All previous notices sent prior to the adoption of this regulation shall be deemed sufficient and shall not be resent.

Section 6. Implementation

The Board of Elections may promulgate procedures and forms necessary to implement the within rules and regulations required under the Rhode Island General Laws.

These rules and regulations were adopted at a meeting of the State Board of Elections held on the _____day of _____2010 pursuant to the Administrative Procedures Act (R.I.G.L. 42-35-1, *et seq.*).

By Order of the Rhode Island Board of Elections

_____ _____

John A. Daluz, Chairman Date

Witnessed by

_____ _____

Robert Kando, Executive Director Date