

NOTICE OF EXEMPT FINAL RULEMAKING
TITLE 2. ADMINISTRATION
CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION
PREAMBLE

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| 1. <u>Article, Part or Sections Affected (as applicable)</u> | <u>Rulemaking Action</u> |
| R2-20-105 | Amendment |

- 2. Citations to the agency's statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific) and the statute or session law authorizing the exemption:**
Authorizing statute: A.R.S. § 16-940, et seq.
Implementing statute and statute authorizing the exemption: A.R.S. § 16-956(C).
The Citizens Clean Elections Commission is exempt from Executive Order 15-01 because it is not an agency whose head is appointed by the Governor and is, therefore, exempt.

- 3. The effective date of the rule and the agency's reason it selected the effective date:**
The proposal may be effective no sooner than January 1, 2017.

- 4. A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:**
Not Applicable

- 5. The agency's contact person who can answer questions about the rulemaking:**
Name: Thomas M. Collins, Executive Director
Address: Citizens Clean Elections Commission
1616 W. Adams St., Suite 110
Phoenix, AZ 85007
Telephone: (602) 364-3477
Fax: (602) 364-3487
E-mail: thomas.collins@azcleanelections.gov

- 6. An agency's justification and reason why a rule should be made, amended, repealed, or renumbered to include an explanation about the rulemaking:**
R2-20-105 **Certification for Funding**

Updates rule to reflect expansion of electronic qualifying system, 2016 Ariz. Sess. Law, Chapter 176 (52d Legislature). The Commission's rulemakings are exempt from Title 41, Ch. 6, Article 3, pursuant to A.R.S. § 16-956. These rule amendments are primarily the result of SB1516 (2016). SB 1516 contains provisions that raise serious questions under the Arizona and U.S. Constitutions. Among other things, SB 1516 includes provisions that attempt to preempt the Commission's rulemaking authority (A.R.S.§ 16-901(42)), narrow the definitions of expenditure and contribution and eliminate the definition of political committee adopted by the Clean Elections Act in 1998, raising serious constitutional questions under the Voter Protection Act of the Arizona Constitution. The Commission does not, by adopting these rules, waive any legal objection to the enactment of laws that violate the Voter Protection Act. Rather, it adopts these rules in the interest of harmonizing the Commission's rules with the existing statutes in order to avoid confusion within the regulated community and encourage consistency between the Commission's rules and the policies of other election-related offices. In addition to the VPA issues, the provisions of SB 1516 raise questions of equal protection regarding the treatment of corporations registered in Arizona that also have 501 status with the IRS and questions under Article 7, §. 16 of the Arizona Constitution regarding the publication of campaign contributions and expenditures. The Commission notes these issues for the record, but again, seeks as much as possible to harmonize its rules. The Commission retains its full authority to enforce Article 2 of Chapter 6 of Title 16 consistent with the terms of the statute, as well as the court interpretations which confirm its plain terms.

- 7. A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**

Not applicable

8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**

Not applicable

9. **The summary of the economic, small business, and consumer impact, if applicable:**

Not applicable

10. **A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and final rulemaking package, (if applicable):**

Not applicable.

11. **An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**

The Commission solicits public comment throughout the rulemaking process.

12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**

- a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**

Not applicable

- b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of the federal law:**

Not applicable

- c. **Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**

Not applicable

13. **A list of any incorporated by reference material and its location in the rules:**

Not applicable

14. **Whether this rule previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**

The rule was not previously made, amended, repealed, or renumbered as an emergency rule.

15. **The full text of the rules follows:**

**TITLE 2. ADMINISTRATION
CHAPTER 20. CITIZENS CLEAN ELECTIONS COMMISSION
ARTICLE 1. GENERAL PROVISIONS**

R2-20-105. Certification for Funding

A. No change.

B. No change.

C. A candidate may accept electronic \$5 qualifying contributions ~~up to a maximum of 50% of the minimum number required to qualify for funding~~ for the elected office sought by the candidate. The Secretary of State's secured internet portal must be used to collect electronic \$5 qualifying. A \$5 contribution must accompany every \$5 qualifying contribution form and must be submitted via the Secretary of State's portal using a private electronic payment service, specified by the Secretary of State's Office, bank account, credit or debit card. A non-refundable transaction fee may be assessed on electronic \$5 qualifying contribution transactions. The transaction fee is not a contribution to the candidate's campaign and is paid by the contributor. If excess funds

are accumulated by the candidate's campaign based on the transaction fee then all excess funds must be given to the Commission and must be entered into the candidate's campaign finance report ~~as interest/dividend/other income in accordance with A.R.S. 16-915(3)(e)~~ in a manner that indicates the transaction fees have been accumulated and transferred.

D. No change.

E. No change.

F. No change.

G. No change.

H. No change.

I. No change.

~~J. Pursuant to A.R.S. § 16-956(F), the minimum number of qualifying contributions shall be as follows:~~

Legislature	250
Mine Inspector	650
Corporation Commissioner	1,700
Superintendent of Public Instruction	1,700
Treasurer	1,700
Attorney General	2,800
Secretary of State	2,800
Governor	4,500