

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1988**

No. 8

By the Vice-Chairman (Council Member Vallone) and Council Members Katzman, Alter, Maloney, Albanese, DiBrienza, Dryfoos, Gerges, Messinger and Michels (by request of the Mayor); also Council Members Berman, Eisland, Friedlander, Greitzer, Harrison, Pinkett, Rivera, Spigner, Wooten and Horwitz.

A LOCAL LAW

To amend the administrative code of the city of New York, in relation to optional partial public financing of election campaigns in the city

Be it enacted by the Council as follows:

Section 1. Declaration of legislative intent and findings. The council finds that both the possibility of privilege and favoritism and the appearance of impropriety harm the effective functioning of government. The council further finds that whether or not the reliance of candidates on large private campaign contributions actually results in corruption or improper influence, it has a deleterious effect upon government in that it creates the appearance of such abuses and thereby gives rise to citizen apathy and cynicism.

The council further finds that it is vitally important to democracy in the city of New York to ensure that citizens, regardless of their personal wealth, access to large contributions or other financial connections, are enabled and encouraged to compete effectively for public office by educating the voters as to their qualifications, positions and aspirations for the city.

The council further finds that special conditions have arisen in the city of New York, as a result of the presence of unique concentrations of wealth and financial power, which require special measures pertaining to ethics in government. The council finds that these special conditions were recognized by the State-City Commission on Ethics in Government, whose reports on governmental ethics and campaign financing included specific recommendations for the city of New York. The council further finds that the state legislature has recognized the special nature of these conditions in the city of New York respecting ethics in government by passing chapter 689 of the Laws of 1986, which limits campaign contributions to members of the New York city board of estimate by persons with business before the board. The council further finds that chapter 813 of the Laws of 1987, the ethics in government act, establishes minimum ethical standards for local officers and employees but allows localities, including the city of New York, to enact more stringent controls so that they may address their special needs.

The council has determined that the enhancement of ethics in government is part of the property, affairs and government of the city of New York and that the enactment of this local law is within the council's legislative authority. The council intends to accomplish its purpose of improving governmental ethics in the city of New York by means of a voluntary system of public financing of local election campaigns. The council intends by means of this local law to improve popular understanding of local issues, to increase participation in local elections by voters and candidates, to reduce improper influence on local officers by large campaign contributors and to enhance public confidence in local government. The council intends that the campaign finance

fund provided by this law shall receive appropriations in a timely manner so that there is sufficient money to meet the needs of eligible candidates and so candidates know well in advance of their campaigns that there is sufficient money in the fund.

The council finds that this local law will supplement and be consistent with state law. The council does not intend by the enactment of this local law to prohibit any person from making or receiving any campaign contributions to the extent allowed by state law, or to permit any person to make or receive such contributions when prohibited by state law. Rather it intends, by means consistent with state law, to ensure an open and democratic political system that inspires the confidence and participation of its citizens.

§2. Title three of the administrative code of the city of New York is amended by adding a new chapter seven to read as follows:

CHAPTER 7
CAMPAIGN FINANCING

§3-701 Short title. This chapter shall be known as the "New York City campaign finance act."

§3-702 Definitions. For purposes of this chapter, the following terms shall have the following meanings:

1. The term "eligible candidate" shall mean any candidate for nomination for election, or election, to the office of mayor, president of the city council, comptroller, borough president or member of the city council who meets the requirements for eligibility set forth in section 3-703 of this chapter.

2. The term "threshold contribution" shall mean (i) a contribution, (ii) contributions or (iii) a portion of a contribution or contributions, not exceeding five hundred dollars made by a natural person resident in the city of New York to a candidate for nomination for election, or election, to any of the offices covered by the provisions of this chapter or any of such candidate's authorized committees which has been reported in full to the campaign finance board in accordance with subdivision six of section 3-703 by the authorized committee designated by such candidate pursuant to such subdivision and has been contributed on or before December thirty-first in the year of such election that may be used by a candidate to meet the threshold for eligibility. A "threshold contribution" shall be the net amount of any monetary contribution realized by a candidate or an authorized committee after deducting the reasonable value of any goods or services provided the contributor in connection with the contribution. A loan may not be treated as a threshold contribution. For purposes of this subdivision, a "person" shall be deemed to include the spouse and unemancipated children of such person.

3. The term "matchable contribution" shall mean (i) a contribution, (ii) contributions or (iii) a portion of a contribution or contributions, not exceeding five hundred dollars per election made by a natural person resident in the city of New York to a candidate for nomination for election, or election, to any of the offices covered by the provisions of this chapter or any of such candidate's authorized committees which has been reported in full to the campaign finance board in accordance with subdivision six of section 3-703 by the candidate's authorized committee designated by such candidate pursuant to such subdivision and has been contributed on or before December thirty-first in the year of such election that may be matched by public funds in accordance with the provisions of this chapter. A "matchable contribution" shall be the net amount of any monetary contribution realized by a candidate or an authorized committee after deducting the reasonable value of any goods or services provided the contributor in connection with the contribution. A loan may not be treated as a matchable contribution. For purposes of this subdivision, a "person" shall be deemed to include the spouse and unemancipated children of such person.

4. The term "qualified campaign expenditure" shall mean an expenditure for which public funds may be used.

5. The term "fund" shall mean the New York city election campaign finance fund.

6. The term "threshold for eligibility" shall mean the total amount of threshold contributions that an eligible candidate for nomination for election or election to office and the authorized committees of such candidate must receive in order for such candidate to qualify for optional public financing pursuant to this chapter.

7. The term "authorized committee" shall mean a political committee which has been authorized by one or more candidates to aid or take part in the elections of such candidate or candidates and which has filed a statement that such candidate or candidates have authorized such political committee pursuant to section 14-112 of the election law.

8. The term "contribution" shall mean: (a) any gift, subscription, advance, or deposit of money or any thing of value, made in connection with the nomination for election, or election, of any candidate; (b) any funds received by a political committee from another political committee to the extent such funds do not constitute a transfer; (c) any payment, by any person other than a candidate or a political committee authorized by the candidate, made in connection with the nomination for election, or election, of any candidate, including but not limited to compensation for the personal services of any individual which are rendered in connection with a candidate's election or nomination without charge; provided however, that none of the foregoing shall be deemed a contribution if it is made, taken or performed by a person or a political committee independent of the candidate or his or her agents or political committees authorized by such candidate pursuant to section 14-112 of the election law. For purposes of this subdivision, the term "independent of the candidate or his or her agents or political committees authorized by such candidate pursuant to section 14-112 of the election law" shall mean that the candidate or his or her agents or political committees so authorized by such candidate did not authorize, request, suggest, foster or cooperate in any such activity; and provided further, that the term "contribution" shall not include:

(i) the value of services provided without compensation by individuals who volunteer a portion or all of their time on behalf of a candidate or political committee,

(ii) the use of real or personal property and the cost of invitations, food and beverages voluntarily provided by an individual to a candidate or political committee on the individual's residential premises for candidate-related activities to the extent such services do not exceed five hundred dollars in value, and

(iii) the travel expenses of any individual who on his or her own behalf volunteers his or her personal services to any candidate or political committee to the extent such expenses are unreimbursed and do not exceed five hundred dollars in value.

A loan made to an eligible candidate or an authorized committee of such candidate other than in the regular course of the lender's business shall be deemed, to the extent not repaid by the date of the primary or general election, as the case may be, a contribution by the lender. A loan made to an eligible candidate or an authorized committee of such candidate in the regular course of the lender's business shall be deemed, to the extent not repaid by the date of the primary or general election, as the case may be, a contribution by the obligor on the loan and by any other person endorsing, cosigning, guaranteeing, collateralizing or otherwise providing security for the loan.

9. The term "transfer" shall mean any exchange of funds or any thing of value between political committees authorized by the same candidate pursuant to section 14-112 of the election law and taking part solely in his or her campaign.

10. The term "election" shall mean any primary, runoff primary or general election for nomination for election, or election, to the office of mayor, president of the city council, comptroller, borough president or member of the city council.

11. The term "political committee" shall mean any corporation aiding or promoting and any committee or combination of one or more persons operating or cooperating to aid or to promote the success or defeat of a political party or principle, or to aid or take part in the election or defeat of a candidate for public office or to aid or take in the election or defeat of a candidate for nomination at a primary election or convention, including all proceedings prior to such primary election, or of a candidate for any party position voted for at a primary election, or to aid or defeat the nomination by petition of an independent candidate for public office; but nothing in this chapter shall apply to any committee or organization for the discussion or advancement of political questions or principles without connection with any vote. "Political committee" shall include any party committee or constituted committee, as such committees are defined in article fourteen of the election law.

12. The term "intermediary" shall mean an individual, corporation, partnership, political committee, employee organization or other entity which, other than in the regular course of business as a postal, delivery or messenger service, delivers any contribution from another person or entity to a candidate or an authorized committee. "Intermediary" shall not include spouses, parents, children or siblings of the person making such contribution.

§3-703. Eligibility. 1. To be eligible for optional public financing under this chapter, a candidate for nomination for election or election must:

- (a) meet all the requirements of law to have his or her name on the ballot;
- (b) be a candidate for mayor, president of the city council, comptroller, borough president or member of the city council in a primary or general election and meet the threshold for eligibility set forth in subdivision two of this section;
- (c) choose to participate in the public funding provisions of this chapter by filing a written certification in such form as may be prescribed by the campaign finance board, which sets forth his or her acceptance of and agreement to comply with the terms and conditions for the provision of such funds; such certification to be filed with the campaign finance board not later than (i) the tenth day after the first filing of a sworn verified statement pursuant to section 14-112 of the election law that such candidate has authorized a political committee to aid or take part in an election; or (ii) the first day of January in the year in which the election for which he or she seeks to be qualified as an eligible candidate is held, if such candidate has filed such sworn verified statement more than ten days prior to such date and has not already filed such certification, provided, however, that if such certification has been filed for nomination for election to an office in a primary election, no additional certification shall be required for nomination for election, or election, to such office in any other election held in the same calendar year, and provided further that no certification shall be accepted by the board if filed later than the thirtieth day prior to the first day to file designating petitions for the office for which he or she is a candidate or, if a designating petition is not filed on behalf of such candidate, not later than seven days after the nomination of such candidate;
- (d) obtain and furnish to the campaign finance board any information it may request relating to his or her campaign expenditures or contributions and furnish such documentation and other proof of compliance with this chapter as may be requested by such board;
- (e) notify the board as to the existence of each authorized committee authorized by such candidate, whether any such committee has been so authorized by any other candidate, and, if the candidate has authorized more than one authorized committee, notify the board as to which authorized committee has been designated by the candidate pursuant to subdivision six of this section;

(f) state that, except as is otherwise provided in paragraph (g) of this subdivision, such candidate and the authorized committees of such candidate have not accepted and agree not to accept any contribution or contributions from any one individual, corporation, partnership, political committee, employee organization or other entity for each election in which he or she seeks to be qualified as an eligible candidate which in the aggregate: (i) for the office of mayor, president of the city council or comptroller, shall exceed three thousand dollars, or (ii) for borough president, shall exceed two thousand five hundred dollars, or, (iii) for member of the city council, shall exceed two thousand dollars; provided that if state law prescribes a contribution limitation of a lesser amount, this paragraph shall not be deemed to authorize acceptance of a contribution in excess of such lesser amount. The maximum contributions set forth in this paragraph shall be adjusted in accordance with subdivision seven of this section;

(g) state, if such candidate and the authorized committees of such candidate have accepted any contribution or contributions from any one individual, corporation, partnership, political committee, employee organization or other entity, prior to the effective date of this chapter which in the aggregate exceed the maximum contribution applicable pursuant to paragraph (f) of this subdivision, that such candidate and such authorized committees have not, subsequent to the effective date of this chapter, spent, and agree not to spend for such nomination for election or election, any portion of any contributions from any one individual, corporation, partnership, political committee, employee organization or other entity to the extent that such portion exceeds the maximum contribution applicable pursuant to paragraph (f) of this subdivision. Any contribution made prior to the effective date of this chapter shall not be deemed a matchable contribution or threshold contribution for purposes of this chapter for any election held in the year nineteen hundred ninety or thereafter;

(h) state that he or she has not made and agrees not to make expenditures from or use his or her personal funds or property or the personal funds or property of his or her spouse or unemancipated children in connection with his or her nomination for election or election except as a contribution to his or her authorized committee designated pursuant to subdivision six of this section in an amount that does not exceed the maximum contribution amount applicable pursuant to paragraph (f) of this subdivision; and

(i) state that such candidate and the authorized committees of such candidate have not and agree not to exceed the applicable expenditure limitations set forth in section 3-706.

2.(a) The threshold for eligibility for public funding for candidates in a primary or general election shall be in the case of:

(i) mayor, not less than two hundred fifty thousand dollars in threshold contributions including at least one thousand such contributions in the amount of ten dollars or more;

(ii) president of the city council and comptroller, not less than one hundred twenty-five thousand dollars in threshold contributions including at least five hundred such contributions of ten dollars or more;

(iii) borough president, an amount equal to the number of persons living in such borough as determined by the last census multiplied by two cents in threshold contributions including at least one hundred such contributions of ten dollars or more from residents of the borough, or ten thousand dollars, whichever is greater;

(iv) member of the city council, not less than seven thousand five hundred dollars in threshold contributions including at least fifty such contributions of ten dollars or more from residents of the district in which the seat is to be filled.

(b) Any candidate meeting the threshold for eligibility in a primary election for one of the foregoing offices shall be deemed to have met the threshold for eligibility for such office in any other election held in the same calendar year.

3. In order to be eligible to receive public funds in a primary election a candidate must agree that in the event he or she is a candidate for such office in any other election held in the same calendar year, that he or she will be bound in each such other election by the eligibility requirements and all other provisions of this chapter.

4. Candidates who are contested in a primary election for nomination for election to office and who do not file a written certification pursuant to paragraph (c) of subdivision one of this section shall not be eligible for public funds for any election to such office held in the same calendar year.

5. Candidates who are unopposed in an election shall not be eligible to receive public funds for such election.

6. Each candidate shall designate his or her authorized committee, or if he or she has more than one authorized committee, a single authorized committee, to receive public funds pursuant to this chapter and report, to the best of its knowledge, to the campaign finance board every contribution, loan, guarantee or other security for such loan received by the candidate, such authorized committee and any other authorized committee of such candidate, the full name, residential address, occupation, employer and business address of each individual, corporation, partnership, political committee, employee organization or other entity making, or which is the intermediary for, such contribution, loan, guarantee or other security for such loan and every expenditure made by the candidate, such authorized committee and any other authorized committee of such candidate, including expenditures not subject to section 3-706. Such reports shall be submitted at such times and in such form as the campaign finance board shall require.

7. Not later than the first day of March in the year nineteen hundred ninety and every fourth year thereafter the campaign finance board shall (i) determine the percentage difference between the average over a calendar year of the consumer price index for the metropolitan New York-New Jersey region published by the United States bureau of labor statistics for the twelve months preceding the beginning of such calendar year and the average over the calendar year nineteen hundred eighty-seven of such consumer price index; (ii) adjust each maximum contribution applicable pursuant to paragraph (f) of subdivision one of this section by the amount of such percentage difference to the nearest fifty dollars; and (iii) publish such adjusted maximum contribution in the City Record. Such adjusted maximum contribution shall be in effect for any election held before the next such adjustment.

§3-704 *Qualified campaign expenditures.* 1. Public funds provided under the provisions of this chapter may be used only for expenditures by an authorized committee on behalf of a candidate to further the candidate's nomination for election or election during the calendar year in which the primary or general election in which the candidate is seeking nomination for election or election is held. Such public funds may be used only for services, material, facilities or other things of value used to educate the public as to the candidates and issues of such election. Such expenditures may include expenditures associated with advertising, communication with potential voters, and voter registration drives, and such other expenditures that the campaign finance board determines serve the function of educating the public.

2. Such public funds may not be used for:

(a) an expenditure in violation of any law;

(b) payments made to the candidate or a spouse, child, grandchild, parent, grandparent, brother or sister of the candidate or spouse of such child, grandchild, parent, grandparent, brother or

sister, or to a business entity in which the candidate or any such person has a ten percent or greater ownership interest;

(c) payments in excess of the fair market value of services, materials, facilities or other things of value received in exchange;

(d) (i) any expenditure made after the candidate has been disqualified or had his or her petitions declared invalid by the New York city board of elections or a court of competent jurisdiction until and unless such finding is reversed, except as expenditures from funds which are carried over pursuant to subdivision three of section 3-706; and

(ii) any expenditure made after the only remaining opponent of the candidate has been disqualified or had his or her petitions declared invalid by the New York city board of elections or a court of competent jurisdiction until and unless such finding is reversed, except as expenditures from funds which are carried over pursuant to subdivision three of section 3-706;

(e) payments in cash;

(f) any expenditure for food, drink or entertainment;

(g) gifts, except brochures, buttons, signs and other printed campaign material, or

(h) any direct payment of a salary or wage to any individual.

§3-705 *Optional public financing.* Each eligible candidate for nomination for election or election in primary and general elections may obtain payment to the authorized committee designated by such candidate pursuant to subdivision six of section 3-703 from public funds for qualified campaign expenditures, in accordance with the provisions of this chapter, and subject to appropriation.

1. No such public funds shall be paid to an authorized committee until the candidate has qualified as an eligible candidate and has filed the written certification required pursuant to section 3-703 with the campaign finance board. Payment shall not exceed the amounts specified in this chapter, and shall be made only in accordance with the provisions of this chapter. Such payment may be made only to the authorized committee designated by the eligible candidate pursuant to subdivision six of section 3-703. No public funds shall be used except as reimbursement or payment for qualified campaign expenditures actually and lawfully incurred or to repay loans used to pay qualified campaign expenditures.

2. The authorized committee designated by an eligible candidate pursuant to subdivision six of section 3-703 shall receive payment for qualified campaign expenditures of one dollar for each one dollar of matchable contributions in excess of the threshold for eligibility, obtained and reported to the campaign finance board in accordance with the provisions of this chapter, but in no case shall such authorized committee receive in public funds an amount exceeding one-half of the expenditure limitation provided in subdivision one of section 3-706 for the office for which such candidate seeks nomination for election or election. No funds shall be provided pursuant to this subdivision with respect to any election specified in subdivision five of this section. No contribution, contributions, or portion of a contribution or contributions, exceeding five hundred dollars made by a person, including the spouse and unemancipated children of such person, may be used as either a threshold contribution or a matchable contribution, or both, in any one election.

3. A candidate seeking or obtaining nomination for election by more than one party shall be deemed one candidate, and shall not receive additional public funds or be authorized to accept contributions in excess of the maximum contribution applicable pursuant to paragraph (f) of subdivision one of section 3-703 or make additional expenditures by reason of such candidate seeking or obtaining nomination for election by more than one party. Subdivision five of section 3-703 shall not be applicable to such a candidate who is opposed for the nomination of at least one party in a primary election. The elimination of the expenditure limitations and qualification for additional

matching funds provided in subdivision four of section 3-706 shall not be applicable to such a candidate who is opposed for the nomination of at least one party solely by candidates who choose to participate in the public funding provisions of this chapter.

4. The campaign finance board shall make possible payment within four business days after receipt of reports of matchable contributions, or as soon thereafter as is practicable, but not earlier than the earliest dates for making such payments as provided in subdivisions five and six of section 3-709.

5. Notwithstanding any other provision of this chapter, an eligible candidate in a run-off primary election held pursuant to section 6-162 of the election law, an additional day for voting held pursuant to section 3-108 of the election law or an election held pursuant to court order, shall obtain payment for qualified campaign expenditures in an amount equal to twenty-five cents for each one dollar of public funds paid pursuant to this chapter to the authorized committee designated by such eligible candidate pursuant to subdivision six of section 3-703 for the preceding election. Except as provided by this subdivision, no additional public funds shall be provided to any candidate for such election or additional day for voting.

§3-706 Expenditures limitations; additional financing and limits. 1. The following limitations apply to all expenditures made by a candidate and his or her authorized committees on or after the first day of January preceding the election for which such candidate chooses to participate in the public funding provisions of this chapter and to expenditures made at any time prior to such date for services, materials, facilities, advertising or other things of value received, rendered, published, distributed or broadcast on or after such date:

(a) Except as provided in paragraph (b) of this subdivision, in each primary election and in each general election, expenditures by an eligible candidate for one of the following offices and his or her authorized committees shall not exceed the following amounts:

mayor:	\$3,000,000
president of the city council or comptroller:	\$1,750,000
borough president:	\$ 625,000
member of the city council:	\$ 60,000

(b) The expenditure limitation in a run-off primary election, an additional day for voting held pursuant to section 3-108 of the election law or an election held pursuant to court order shall be one half the amount of the applicable limitation provided for an election for such office pursuant to the provisions of paragraph (a) of this subdivision.

(c) Expenditures by eligible candidates in a primary election made prior to or on the date of such primary election shall be deemed to have been made for such primary election.

(d) The campaign finance board shall, pursuant to section 3-713, submit a report to the mayor and the council on or before September first, nineteen hundred ninety, containing its recommendations whether the expenditure limitations provided by this subdivision should be modified. Such report shall set forth the amount of, and reasons for, any modifications it recommends.

(e) Not later than the first day of March in the year nineteen hundred ninety and every fourth year thereafter the campaign finance board shall (i) determine the percentage difference between the average over a calendar year of the consumer price index for the metropolitan New York-New Jersey region published by the United States bureau of labor statistics for the twelve months preceding the beginning of such calendar year and the average over the calendar year nineteen hundred eighty-seven of such consumer price index; (ii) adjust each expenditure limitation applicable pursuant to this subdivision by the amount of such percentage difference to the nearest thousand dollars;

and (iii) publish such adjusted expenditure limitation in the City Record. Such adjusted expenditure limitation shall be in effect for any election held before the next such adjustment.

2. The following limitations apply to all expenditures made by a candidate and his or her authorized committees in the calendar year preceding the year of the election for which such candidate chooses to participate in the public funding provisions of this chapter and to expenditures made at any time prior to such date for services, materials, facilities, advertising or other things of value received, rendered, published, distributed or broadcast in such calendar year. Such expenditures by such a candidate for one of the following offices and his or her authorized committees shall not exceed the following amounts:

mayor,	
president of the city council	
or comptroller:	\$150,000
borough president:	\$100,000
member of the city council:	\$ 50,000

3. Funds received from contributions and payments from the fund not expended by an eligible candidate for nomination for election or election to an office or his or her authorized committees in an election may be carried over for expenditure by such candidate or committees in the next following election for nomination for election or election to such office in the same calendar year, provided that such carry over may not in any way affect, modify or waive the obligation of such candidate or committees to comply with the provisions of this chapter, including the limitations on the receipt of contributions and on the making of expenditures for each election.

4. If any candidate in any primary or general election for an office for which public funds are available pursuant to the provisions of this chapter chooses not to participate in the public funding provisions of this chapter, and where the campaign finance board has determined that such candidate and his or her authorized committees have spent or contracted or have obligated to spend, or received in loans or contributions, or both, an amount which, in the aggregate exceeds half the applicable expenditure limit for such office fixed by subdivision one of this section for candidates who have chosen to participate in the public funding provisions of this chapter, then such expenditure limit shall no longer apply to those candidates in such election for such office who have chosen to receive public funds and the authorized committees of such candidates shall receive payment for qualified campaign expenditures of two dollars for each one dollar of matchable contributions, except that in no case shall a candidate and his or her authorized committees receive in public funds an amount exceeding one-half of the expenditure limitation provided for such office in subdivision one of this section.

5. Expenditures for professional services, including legal fees and accounting fees, made for the purpose of complying with the provisions of this chapter or the election law, and expenses to defend the validity of petitions of designation or nomination or certificates of nomination, acceptance, authorization, declination or substitution shall not be limited by the expenditure limitations of this section.

6. The campaign finance board may adopt a regulation providing for expenditure limitations for expenditures made in the two calendar years preceding the calendar year specified in subdivision two of this section, in accordance with section eleven hundred five of the charter, provided, however, that, notwithstanding any inconsistent provision of section eleven hundred five of the charter, the city council may within forty-five days after the first stated meeting of the city council following the receipt of a copy of such regulation, as provided in subdivision c of section eleven hundred five of the

charter, approve or disapprove such regulation by adoption of an appropriate resolution. Upon approval by the city council such regulation shall take effect as provided therein. If the city council disapproves such regulation, the board shall not be precluded from adopting and transmitting to the city council for its approval or disapproval any other such regulation providing for such expenditure limitations in accordance with this subdivision. If the city council does not approve or disapprove such regulation within such forty-five day period, such regulation shall be deemed to be approved on the forty-sixth day after such first stated meeting.

§3-707 *Multicandidate committees.* 1. Contributions, loans, and guarantees or other security for such loans, made to an authorized committee in support of more than one candidate shall be allocated among such candidates supported by the committee in accordance with formulas promulgated by the campaign finance board or, in the absence of such formulas, in accordance with a reasonable formula acceptable to the campaign finance board. The statements filed by such committee in accordance with this chapter shall set forth, in addition to the other information required, the total amount received by the committee on behalf of all such candidates and the contributions, loans and guarantees or other security for such loans allocated to each candidate by dollar amount and percentage.

2. In computing the aggregate amount expended by a candidate and his or her authorized committees, expenditures made by an authorized committee in support of more than one candidate shall be allocated among such candidates supported by the committee in accordance with formulas promulgated by the campaign finance board or, in the absence of such formulas, in accordance with a reasonable formula acceptable to the campaign finance board. The statements filed by such committee in accordance with this chapter shall set forth, in addition to the other information required, the total amount expended by the committee on behalf of all such candidates and the amount allocated to each candidate by dollar amount and percentage.

§3-708 *Campaign finance board.* 1. There shall be a campaign finance board consisting of five members. Two members of the board shall be appointed by the mayor, provided that not more than one such member shall be enrolled in any one political party, and two members shall be appointed by the vice-chairman of the council, provided that not more than one such member shall be enrolled in any one political party, and one member, who shall be the chairperson, shall be appointed by the mayor after consultation with the vice-chairman. The members shall first be appointed to serve as follows:

- (a) one member appointed by the vice-chairman for a term of one year;
- (b) one member appointed by the mayor for a term of two years;
- (c) one member appointed by the vice-chairman for a term of three years;
- (d) one member appointed by the mayor for a term of four years; and
- (e) the chairperson for a term of five years.

Each term shall commence on April first, nineteen hundred eighty-eight. Thereafter, each member shall be appointed for a term of five years by the mayor or the vice-chairman, according to the original manner of appointment. In case of a vacancy in the office of a member, a member shall be appointed to serve for the remainder of the unexpired term by the mayor or the vice-chairman, according to the original manner of appointment. Each member shall be a resident of the city, registered to vote therein. Each member shall agree not to make contributions to any candidate for nomination for election, or election, to the office of mayor, president of the city council, comptroller, borough president or member of the council which in the aggregate are in excess of the maximum contribution applicable to such office pursuant to paragraph (f) of subdivision one of section 3-703.

No member shall serve as an officer of a political party or be a candidate or participate in any capacity in a campaign by a candidate for nomination for election or election to the office of mayor, president of the city council, comptroller, borough president or member of the city council. Officers and employees of the city or any city agency, lobbyists required to file a statement of registration under section 3-213 and the employees of such lobbyists shall not be eligible to be members of the board.

2. The members of the board shall be compensated at the rate of one hundred dollars per calendar day when performing the work of the board.

3. The board may employ necessary staff, including an executive director and a counsel, and make necessary expenditures subject to appropriation.

4. No member of the campaign finance board shall be removed from office except for cause and upon notice and hearing.

5. The board shall have the power to investigate all matters relating to the performance of its functions and any other matter relating to the proper administration of this chapter and for such purposes shall have the power to require the attendance and examine and take the testimony under oath of such persons as it shall deem necessary and to require the production of books, accounts, papers and other evidence relative to such investigation.

6. The board shall publicize, as it deems appropriate, the names of candidates for nomination or election to the offices of mayor, president of the city council, comptroller, borough president, or city council who violate any of the provisions of this chapter.

7. The board may render advisory opinions with respect to questions arising under this chapter. Such advisory opinions may be rendered on the written request of a candidate, an officer of a political committee or member of the public, or may be rendered on its own initiative. The board shall make public its advisory opinions. The board shall develop a program for informing candidates and the public as to the purpose and effect of the provisions of this chapter.

8. The board shall have the authority to promulgate such rules and regulations and provide such forms as it deems necessary for the administration of this chapter. The board shall promulgate regulations concerning the form in which contributions and expenditures are to be reported, the periods during which such reports must be filed and the verification required. The board shall require the filing of reports of contributions and expenditures for purposes of determining compliance with paragraph (f) of subdivision one of section 3-703 and section 3-706 in accordance with the schedule specified by the state board of elections for the filing of campaign receipt and expenditure statements.

9. The board shall develop a computer data base that shall contain all information necessary for the proper administration of this chapter including information on contributions to and expenditures by candidates and their authorized committees and distributions of moneys from the campaign finance fund. Such data base shall be accessible to the public.

10. The board may take such other actions as are necessary and proper to carry out the purposes of this chapter.

§3-709 New York city campaign finance fund. 1. There is hereby established a special fund, to be known as the New York city campaign finance fund. The moneys in such fund may be expended by the campaign finance board only as payments for eligible candidates in accordance with the provisions of this chapter.

2. The fund shall be kept separate and shall be credited with all sums appropriated therefor, any donations received pursuant to subdivision nine of this section and all earnings accruing on such funds.

3. As soon as practicable in the year nineteen hundred eighty-eight and in time for inclusion in the executive expense budget in every year thereafter, and at such other times as the board shall deem necessary, the board shall submit its estimate of the amount of public funds which will be necessary to provide candidates sufficient financing for elections in the next year in which elections are scheduled pursuant to the charter and for elections to fill vacancies to be held prior to such year, and a reserve for contingencies. Such estimates shall be submitted in such manner and at such times as to assure that such amounts as shall be necessary may be appropriated in full by the beginning of the fiscal year prior to that in which elections are scheduled pursuant to the charter and that additional amounts may be appropriated as necessary.

4. The moneys in such fund shall be paid to candidates by the board upon its certification that such candidates qualify for such funds.

5. No moneys shall be paid to candidates in a primary election any earlier than two weeks after the last day to file designating petitions for such primary election.

6. No moneys shall be paid to candidates in a run-off primary election held pursuant to section 6-162 of the election law or in a general election any earlier than the day after the day of the primary election held to nominate candidates for such election.

7. No moneys shall be paid to any candidate who has been disqualified or whose designating or nominating petitions have been declared invalid by the New York city board of elections or a court of competent jurisdiction until and unless such finding is reversed. Any payment from the fund in the possession of such a candidate or his or her authorized committees on the date of such disqualification or invalidation may not thereafter be expended for any purpose except the payment of liabilities incurred in qualified campaign expenditures before such date and shall be repaid to the fund. If such finding is reversed, the campaign finance board shall return such funds to such candidate or authorized committees and such funds may be expended as provided pursuant to this chapter.

8. Prior to the first distribution of public funds to candidates in any election, the board shall make a determination whether the moneys in the fund are sufficient to provide all candidates the amounts they may receive pursuant to this chapter for all elections to be held during the calendar year for which such determination is made. Such determination shall be published in the City Record, together with information supporting such determination. If the board determines that such moneys are or may be less than such amounts, the board shall submit to the mayor an estimate pursuant to subdivision three of this section and the mayor may propose to the city council and the board of estimate a modification of the expense budget in accordance with the provisions of the charter to provide such funds in whole or in part. The board shall first apply all moneys as are available to payments for eligible candidates in the next election following such determination. If the moneys allocated for payments for eligible candidates in any election are less than the amount the board estimates is necessary to provide candidates the amounts they may receive pursuant to this chapter for such election, the board shall reduce the payments equally for all eligible candidates for all offices in such election by the percentage it determines is necessary to assure such payments shall not exceed the moneys allocated for payments for eligible candidates in such election. The board shall adjust such percentage if additional moneys are received into the fund by appropriation or otherwise, or if, upon consideration of further facts, it changes its estimate of moneys available.

9. The board shall be empowered to accept donations to be credited to the fund. The board may devise such methods of soliciting and collecting donations as it may deem feasible and appropriate.

§3-710 Examinations and audits; repayments. 1. The campaign finance board is hereby empowered to audit and examine all matters relating to the performance of its functions and any other matter relating to the proper administration of this chapter.

2. (a) *If the board determines that any portion of the payment made to the authorized committee designated by an eligible candidate pursuant to subdivision six of section 3-703 from the fund was in excess of the aggregate amount of payments which such candidate was eligible to receive pursuant to this chapter, it shall notify such committee and such committee shall pay to the board an amount equal to the amount of excess payments.*

(b) *If the board determines that any portion of the payment made to an authorized committee of an eligible candidate from the fund was used for purposes other than qualified campaign expenditures, it shall notify such authorized committee of the amount so disqualified and such authorized committee shall pay to the board an amount equal to such disqualified amount.*

(c) *If the total of contributions and payments from the fund received by an eligible candidate and his or her authorized committees exceed the total campaign expenditures of such candidate and committees for all elections held in the same calendar year, such candidate and committees shall use such excess funds to reimburse the fund for payments received by the authorized committee from the fund during such calendar year. Such reimbursement shall be made not later than ten days after all liabilities have been paid and in any event, not later than April tenth of the year following such calendar year. No such excess funds shall be used for any other purpose, unless the total amount of the payments received from the fund by the authorized committee has been repaid.*

3. *If a candidate whose authorized committee has received public funds is disqualified by a court of competent jurisdiction on the grounds that such candidate committed fraudulent acts in order to obtain a place on the ballot and such decision is not reversed, such candidate and his authorized committee shall pay to the board an amount equal to the total of public funds received by such authorized committee.*

§3-711 *Penalties. 1. Any candidate receiving public financing who has submitted a written certification pursuant to subdivision six of section 3-703 who fails to file a statement or record required to be filed by this chapter or the rules or regulations of the board in implementation thereof or who violates any other provision of this chapter shall be subject to a civil penalty in an amount not in excess of ten thousand dollars.*

2. *In addition to the penalties provided in subdivision one of this section, if the aggregate amount of expenditures by a candidate and such candidate's authorized committees exceed the expenditure limitations contained in this chapter such candidate shall be subject to a civil penalty in an amount not to exceed three times the sum by which such expenditures exceed the applicable expenditure limitation.*

3. *The intentional or knowing furnishing of any false or fictitious evidence, books or information to the board under this chapter, or the inclusion in any evidence, books, or information so furnished of a misrepresentation of a material fact, or the falsifying or concealment of any evidence, books, or information relevant to any audit by the board or the intentional or knowing violation of any other provision of this chapter shall be punishable as a class A misdemeanor in addition to any other penalty as may be provided under law. The board shall seek to recover any public funds obtained as a result of such conduct.*

§3-712 *Satisfaction of outstanding liabilities. Contributions, loans, guarantees and other security for such loans used and expenditures made toward the payment of liabilities incurred by a candidate in an election held prior to the effective date of this section or in which he or she did not choose to participate in the public funding provisions of this chapter, or in a campaign for public office other than one covered by this chapter, shall not be subject to the requirements and limitations of this chapter.*

§3-713 Reports. 1. The campaign finance board shall review and evaluate the effect of this chapter upon the conduct of election campaigns in the city and shall submit a report to the mayor and the city council on or before September first, nineteen hundred ninety, and every fourth year thereafter, and at any other time upon the request of the mayor or the city council and at such other times as the board deems appropriate, containing:

(a) the number and names of candidates qualifying for and choosing to receive public funds pursuant to this chapter, and of candidates failing to qualify or otherwise not choosing to receive such funds, in each election during the four preceding calendar years;

(b) the amount of public funds provided to the authorized committees of each candidate pursuant to this chapter and the contributions received and expenditures made by each such candidate and the authorized committees of such candidate, in each election during the four preceding calendar years;

(c) recommendations as to whether the provisions of this chapter governing maximum contribution amounts, thresholds for eligibility and expenditure limitations should be amended and setting forth the amount of, and reasons for, any amendments it recommends;

(d) analysis of the effect of this chapter on political campaigns, including its effect on the sources and amounts of private financing, the level of campaign expenditures, voter participation, the number of candidates and the candidate's ability to campaign effectively for public office;

(e) a review of the procedures utilized in providing public funds to candidates; and

(f) such recommendations for changes in this chapter as it deems appropriate.

2. For the report submitted in the year nineteen hundred ninety, the board also shall review any contributions made to candidates and authorized committees prior to the effective date of this chapter which exceed the amount of the maximum contribution applicable pursuant to paragraph (f) of subdivision one of section 3-703 and report as to whether such contributions were returned, expended or otherwise used and the purposes of such expenditures or other uses.

§3-714 Construction. Nothing in this chapter shall be construed to prohibit the making or receipt of contributions to the extent permitted by the election law or to permit the making or receipt of contributions otherwise prohibited.

§3. The council hereby declares its intent that not more than twenty-eight million dollars shall be appropriated in the expense budget as adopted for the fiscal year beginning on July first, nineteen hundred eighty-eight, to the New York city campaign finance fund established by this local law for payments for eligible candidates in accordance with the provisions of this local law.

§4. Severability. If any clause, sentence, subdivision, paragraph, section or part of this local law be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operations to the clause, sentence, subdivision, paragraph, section or part thereof directly involved in the controversy in which such judgment shall have been rendered.

§5. This local law shall take effect immediately, except that the provision of this local law providing optional public financing shall first apply to elections held in nineteen hundred eighty-nine.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, s.s.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on February 9, 1988, and approved by the Mayor on February 29, 1988.

CARLOS CUEVAS, City Clerk, Clerk of Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW § 27

Pursuant to the provisions of Municipal Home Rule Law § 27, I hereby certify that the enclosed local law (Local Law 8 of 1988, Council Int. No. 906-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on February 9, 1988: 24 for, 9 against.

Was approved by the Mayor on February 29, 1988.

Was returned to the City Clerk on March 1, 1988.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel.