



Legislation Text

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Int. No. 586-A

By The Speaker (Council Member Quinn) and Council Members Felder, Rivera, Comrie, Fidler, de Blasio, Dickens, Arroyo Jackson, Garodnick, Gentile, Gerson, Gioia, James, Lappin, Mark-Viverito, McMahon, Nelson, Recchia, Reyna, Seabrook, Stewart, Vacca, Weprin, White Jr., Liu, Mendez and The Public Advocate (Ms. Gotbaum) (in conjunction with the Mayor)

A Local Law to amend the New York city charter and the administrative code of the city of New York, in relation to campaign finance.

Be it enacted by the Council as follows:

Section 1. Subdivision 3 of section 3-702 of the administrative code of the city of New York, as amended by local law number 17 for the year 2006, is amended, and three new subdivisions 18, 19 and 20 are added, to read as follows:

3. The term “matchable contribution” shall mean (i) a contribution, (ii) contributions or (iii) a portion of a contribution or contributions, not greater than the applicable contribution limitation set forth in paragraph (f) of subdivision one of section 3-703 for all covered elections held in the same calendar year, made by a natural person resident in the city of New York to a participating candidate which has been reported in full to the campaign finance board in accordance with subdivision six of section 3-703 by the candidate’s principal committee 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. Any contribution, contributions, or a portion of a contribution determined to be invalid for matching funds by the board may not be treated as a matchable contribution for any purpose. A loan may not be treated as a matchable contribution. The following contributions are not matchable:

- (a) in-kind contributions of property, goods, or services;

(b) contributions in the form of the purchase price paid for an item with significant intrinsic and enduring value;

(c) contributions in the form of the purchase price paid for or otherwise induced by a chance to participate in a raffle, lottery, or similar drawing for valuable prizes;

(d) money order contributions from any one contributor that are, in the aggregate, greater than \$100;

(e) contributions from individuals under the age of eighteen years;

(f) contributions from individual vendors to whom the participating candidate or his or her principal committee makes an expenditure, in furtherance of the nomination for election or election covered by the candidate's certification, unless such expenditure is reimbursing an advance; [and]

(g) contributions from lobbyists or other persons required to be included in a statement of registration filed pursuant to section 3-213(c)(1) or section 3-213-d. The board shall rely on the database maintained by the city clerk pursuant to section 3-221 or such other information known to the board to determine whether a contribution is not matchable based on the contributor's status as a lobbyist or person required to be included in a statement of registration filed pursuant to section 3-213[.]; and

(h) contributions from contributors subject to the limitations of subdivision one-a of section 3-703 of this chapter.

18. a. The term “business dealings with the city” shall mean (i) any contract for the procurement of goods or services or construction that is entered into or in effect with the city of New York or any agency or entity affiliated with the city of New York (other than a contract procured through competitive sealed bidding, or one or more contracts with a single person or entity for the procurement of goods or services totaling not more than the dollar value set forth in section 6-116.2(i)(3)(a) of the administrative code, or for construction totaling not more than five hundred thousand dollars, or an emergency contract awarded pursuant to section 315 of the charter), and shall include any contract for the underwriting of the debt of the city of New York or any agency or entity affiliated with the city of New York and the retention of any bond counsel, disclosure counsel

or underwriter's counsel in connection therewith; (ii) any acquisition or disposition of real property (other than a public auction or competitive sealed bid transaction or the acquisition of property pursuant to the department of environmental protection watershed land acquisition program) with the city of New York or any agency or entity affiliated with the city of New York; or (iii) any application for approval sought from the city of New York pursuant to the provisions of section 195 of the charter, any application for approval sought from the city of New York that has been certified pursuant to the provisions of section 197-c of the charter, and any application for a zoning text amendment that has been certified pursuant to section 201 of the charter; provided, however that for purposes of this clause, with respect to section 195 an applicant shall include the lessor of an office building or office space, and with respect to section 197-c an applicant shall include a designated developer or sponsor of a project for which a city agency or local development corporation is the applicant and provided, further, however, that owner-occupants of one, two and three family homes shall not be considered applicants pursuant to this clause; or (iv) one or more concessions (other than concessions awarded through competitive sealed bid) or franchises from the city of New York or any agency or entity affiliated with the city of New York with estimated aggregate payments to the city of more than the dollar value set forth in section 6-116.2(i)(3)(a) of the administrative code per fiscal year; or (v) one or more grants totaling not more than the dollar value set forth in section 6-116.2(i)(3)(a) of the administrative code, received from the city of New York or any agency or entity affiliated with the city of New York; or (vi) any economic development agreement entered into or in effect with the city of New York or any agency or entity affiliated with the city of New York; or (vii) any contract for the investment of pension funds, including investments in a private equity firm and contracts with investment related consultants. In addition, for purposes of this chapter a lobbyist as defined in section 3-211 of this title shall be deemed to be engaged in business dealings with the city of New York during all periods covered by a registration statement. For purposes of clauses (i), (iv) and (v) of this subdivision, all contracts, concessions, franchises and grants that are five thousand dollars or less in value shall be excluded from any calculation as to whether a contract, concession, franchise or grant is a business dealing

with the city. For purposes of clauses (ii) and (iii) of this subdivision, the department of city planning, in consultation with the board, may promulgate rules to require the submission by applicants to the city of information necessary to implement the requirements of subdivisions 1-a and 1-b of section 3-703 of this chapter as they relate to clauses (ii) and (iii) of paragraph (a) of this subdivision for purposes of inclusion in the doing business database established pursuant to subdivision (20) of this section. For purposes of this subdivision, actions, transactions, and agreements for the purpose of providing affordable housing pursuant to the Private Housing Finance Law or the General Municipal Law or any other city, state or federal program, including but not limited to actions, transactions and agreements for such purposes which involve land dispositions, loans, grants, real property tax exemptions, zoning bonuses, low income housing tax credits, rent subsidies, or agreements imposing limitations on the incomes of residents or on the rents or other charges to be paid by such residents, shall not constitute business dealings with the city of New York. For purposes of this subdivision, “agency or entity affiliated with the city of New York” shall mean the city school district of the city of New York and any public authority, public benefit corporation or not for profit corporation, the majority of whose board members are officials of the city of New York or are appointed by such officials.

b. Business dealings with the city as defined in this subdivision shall be limited as follows: for purposes of clause (i) of paragraph (a) of this subdivision, bids or proposals on contracts for the procurement of goods, services, or construction shall only constitute business dealings with the city of New York for the period from the later of the submission of the bid or proposal or the date of the public advertisement for the contract opportunity until twelve months after the date of such submission or advertisement, and contracts for the procurement of goods, services or construction shall only constitute business dealings with the city of New York during the term of such contract and for twelve months after the end of such term, provided, however that where such contract award is made from a line item appropriation and/or discretionary funds made by an elected official other than the mayor or the comptroller, such contract shall only constitute business dealings with the city from the adoption of the budget in which the appropriation of such contract is included until

twelve months after the end of the term of such contract; for purposes of clause (ii) of paragraph a of this subdivision, leases in which the city of New York is the proposed lessee, shall only constitute business dealings with the city from the date the application for acquisition is filed pursuant to section 195 or the date of the certification of such application pursuant to section 197-c to a period of one year after the commencement of the lease term or after the commencement of any renewal and where the city or any city affiliated entity is disposing of any real property interest, shall only constitute business dealings with the city from the date of the submission of a proposal and during the term of any agreement and one year after; for purposes of clause (iii) of paragraph (a) of this subdivision, applications for approval sought from the city of New York pursuant to the provisions of sections 197-c or 201 of the charter, except for applications for leases as described in clause (ii), shall only constitute business dealing with the city from the date of the certification of such application to the date that is one hundred twenty days after the date of filing by the council with the mayor of its action pursuant to subdivision e of section 197-d of the charter or in the case of a decision of the city planning commission for which the council takes no action pursuant to paragraph (3) of subdivision (b) of section 197-d of the charter, the date which is twenty days following the filing of such decision with the council pursuant to subdivision a of section 197-d of the charter, provided, however, that in the case of a disapproval of a council action by the mayor pursuant to subdivision e of section 197-d of the charter, such date shall be one hundred twenty days after expiration of the ten day period for council override pursuant to such section; for purposes of clause (iv) of paragraph (a) of this subdivision, bids or proposals for franchises and concessions shall only constitute business dealings with the city of New York for the period from the submission of the bid or proposal until twelve months after the date of such submission, concessions shall only constitute business dealings with the city of New York during the term of such concession and for twelve months after the end of such term, and franchises shall only constitute business dealings with the city of New York for the period of one year after the commencement of the term of the franchise or after the commencement of any renewal; for purposes of clause (v) of paragraph (a) of this subdivision, grants shall constitute business dealings with the city of New York for

one year after the grant is made; for purposes of clause (vi) of paragraph (a) of this subdivision, economic development agreements shall constitute business dealings with the city from the submission of an application for such agreement and during the term of such agreement and for one year after the end of such term; and for purposes of clause (vii) of paragraph (a) of this subdivision, contracts for the investment of pension funds, including the investments in a private equity firm and contracts with investment related consultants shall constitute business dealings with the city from the time of presentation of investment opportunity or the submission of a proposal, whichever is earlier, and during the term of such contract and for twelve months after the end of such term.

c. Notwithstanding anything in this subdivision, a person, as defined by subdivision 20 of section 3-702, who has submitted bids or proposals on contracts for the procurement of goods, services or construction or who has submitted bids or proposals for franchises or concessions that are no longer being considered for an award or a person who for any other reason believes he or she should not be on the database may apply to the city chief procurement officer or other person designated by the mayor for removal from the doing business database and shall be removed from the database upon a determination that said person should not be included in the database.

d. A person, as defined by subdivision 20 of section 3-702, shall be considered to have business dealings with the city as of the date the person's name is entered in the doing business database, as such date is indicated in such database or the date the person began doing business with the city, as such date is indicated in such database, whichever is earlier, except that the date on which the person is considered doing business with the city shall not be earlier than thirty days before the date the person's name is entered into such database.

19. The term "economic development agreement" means any contract or agreement in which financial incentives including, but not limited to, tax incentives, payments in lieu of taxes and financing are offered in return for the development, attraction or retention of business; provided, however that no financial incentives which are given to a person who qualifies for such incentive by operation of law shall be deemed to be pursuant

to an economic development agreement for purposes of this chapter.

20. The term “doing business database” means a computerized database accessible to the board that contains the names of persons who have business dealings with the city; provided, however that for purposes of this chapter the doing business database shall not be required to contain the names of any person whose business dealings with the city are solely of a type for which the board has not certified that such database includes the names of those persons engaged in such type of business dealings with the city. Such database shall be developed, maintained and updated by the office of the mayor in a manner so as to ensure its reasonable accuracy and completeness; provided, however, that in no event shall such database be updated less frequently than once a month. Such computerized database shall contain a function to enable members of the public to determine if a given person is in the database because such person has business dealings with the city. For purposes of this definition, the term “person” shall include an entity that has business dealings with the city, any chief executive officer, chief financial officer and/or chief operating officer of such entity or persons serving in an equivalent capacity, any person employed in a senior managerial capacity regarding such entity, or any person with an interest in such entity which exceeds ten percent of the entity provided, however, that “entity” for purposes of this definition shall not include a neighborhood, community or similar association consisting of local residents or homeowners organized on a non-profit basis where such association is the applicant pursuant to subsection (3) of subdivision (a) of section 197-c of the charter or pursuant to section 201 of the charter or is a parent company or an affiliated company of an entity. For purposes of this subdivision, the phrase “senior managerial capacity” shall mean a supervisory capacity, either by virtue of title or duties, in which substantial discretion is exercised over the solicitation, letting or administration of any contract, franchise or concession, grant or economic development agreement with the city or application for any land use approval from the city.

§2. Section 3-703 of the administrative code of the city of New York is amended by adding two new subdivisions 1-a and 1-b to read as follows:

1-a. Notwithstanding any inconsistent provision of this section, a participating candidate or his or her principal committee may accept, either directly or by transfer, a contribution or contributions for a covered election from a natural person who has business dealings with the city, as that term is defined in subdivision eighteen of section 3-702 of this chapter, if the aggregate of such contributions to such candidate from such person for such election does not exceed: (i) for the office of mayor, public advocate or comptroller four hundred dollars; (ii) for borough president three hundred twenty dollars; (iii) for member of the city council two hundred fifty dollars. Any contribution made pursuant to this section shall not be a matchable contribution. For purposes of this subdivision, "person" shall include any chief executive officer, chief financial officer and/or chief operating officer of an entity which has business dealings with the city, any person employed in a senior managerial capacity regarding such an entity, or any person with an interest in such an entity which exceeds ten percent of the entity. For purposes of this subdivision, the phrase "senior managerial capacity" shall mean a supervisory capacity, either by virtue of title or duties, in which substantial discretion is exercised over the solicitation, letting or administration of any contract, franchise, or concession, grant or economic development agreement with the city or application for any land use approval from the city. Notwithstanding any provision of this subdivision, the limitations on contributions contained herein shall not apply to any contribution made by a natural person who has business dealings with the city to a participating candidate or his or her principal committee where such participating candidate is the contributor, or where such participating candidate is the contributor's parent, spouse, domestic partner, sibling, child, grandchild, aunt, uncle, cousin, niece or nephew by blood or by marriage.

1-b. Individuals and organizations having business dealings with the city of New York. a. Each participating candidate and his or her principal committee shall inquire of every individual or entity making, a contribution, loan, guarantee or other security for such loan in excess of the amounts set forth in subdivision 1-a of section 3-703, through a question, in a form prescribed by the campaign finance board, as to whether such individual, corporation, partnership, political committee, employee organization or other entity has business

dealings with the city, as that term is defined in this chapter, and, if so, the name of the agency or entity with which such business dealings are or were carried on and the appropriate type or category of such business dealings. Such form shall contain in prominent typeface and in a prominent location the statement “If a contributor has business dealings with the City as defined in the campaign finance act, such contributor may contribute only up to two hundred fifty dollars for city council, three hundred twenty dollars for borough president and four hundred dollars for mayor, comptroller or public advocate.” Upon receipt of the response to such inquiry (including any failure to respond), the principal committee shall keep a copy in its records and shall report each contribution to the board on the next applicable filing deadline in accordance with the board’s disclosure schedule. The board shall check each contribution against the doing business database and shall notify the principal committee within twenty days of the reporting of such contribution if a contribution exceeding the doing business contribution limitation set forth in subdivision 1-a of section 3-703 is subject to such limitations of this subchapter or if a contribution is not matchable pursuant to such subdivision. Notwithstanding any provision in this subdivision, in the six weeks preceding the covered election the board shall provide such notification to the principal or authorized committee within three business days of the reporting of such contribution to the board in accordance with applicable reporting deadlines. If the board fails to notify the principal committee that a contribution is in excess of the limitations set forth in subdivision 1-a of section 3-703 of this chapter in accordance with this subdivision, any such contribution shall be deemed valid for purposes of such limitation provided, however, that no such contribution shall be matchable. Such principal committee shall have twenty days from the date of any such notification to return the amount of any contribution in excess of the limitations set forth in subdivision 1-a of section 3-703 to the contributor. No violation shall issue and no penalty shall be imposed where such excess amount is postmarked or delivered within twenty days of such notification by the board and the board shall not designate a candidate as having accepted a contribution in excess of such limitations where such excess has been returned in accordance with the time limitations set forth herein. Failure to return such excess amount in accordance with the provisions

herein shall not result in the board withholding public funds for which the participating candidate's principal committee is otherwise eligible pursuant to section 3-705 of this chapter; provided, however, that the board may deduct an amount equal to the total unreturned contributions in excess of the limitations set forth in subdivision 1-a of section 3-703 of this chapter from such payment of public funds. For purposes of this section, "individual" shall include any chief executive officer, chief financial officer, and/or chief operating officer of an entity or persons serving in an equivalent capacity, any person in a senior managerial capacity regarding an entity, or any person with an interest in an entity, which exceeds ten percent of the entity. For purposes of this subdivision, the phrase "senior managerial capacity" shall mean a supervisory capacity, either by virtue of title or duties, in which substantial discretion is exercised over the solicitation, letting or administration of any contract, franchise or concession, grant or economic development agreement with the city or application for any land use approval from the city. Notwithstanding any other provision of this section, no participating candidate shall be liable for any fine or penalty for the failure of any contributor to respond to any such request or for any erroneous response.

§3. Subparagraph (i) of paragraph c of subdivision 1 of section 3-703 of the administrative code of the city of New York, as amended by local law 12 for the year 2003, is amended to read as follows:

(i) the [first] tenth day of June in the year of the covered election, or such other later date as the board shall provide, provided, however that any candidate who files such written certification prior to such date shall be permitted to rescind such certification in writing on or before such date;

§4. Section 3-705 is amended by adding two new subdivisions 9 and 10 to read as follows:

9. If a participating candidate endorses or publicly supports his or her opponent for election, such candidate shall not be eligible for public funds.

10. Participating candidates who lose in the primary election but remain on the ballot for the general election must certify to the board that they will actively campaign for office by including, but not limited to, raising and spending funds, seeking endorsements and broadly soliciting votes before receiving public funds.

§5. Paragraph (d) of subdivision 1 of section 3-703 of the administrative code of the city of New York, as amended by local law 59 for the year 2004, is amended to read as follows:

(d) obtain and furnish to the campaign finance board and his or her principal committee or authorized committees must obtain and furnish to the 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, provided, however, that the board shall accept such required documentation through an electronically scanned transmission;

§6. Section 3-703 of the administrative code of the city of New York is amended by adding a new subdivision 15 to read as follows:

15. Participating candidates, their campaign managers, treasurers or persons with significant managerial control over a campaign shall be required to attend a training provided by the campaign finance board concerning compliance with the requirements of the campaign finance program and use of the campaign finance program software.

§7. Subdivision 4 of section 3-705 of the administrative code of the city of New York, as amended by local law 58 for the year 2004, is amended to read as follows:

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; provided, however, that the board shall withhold up to five percent of all public funds payments to participating candidates until the final pre-election payment for any given election. The board shall schedule a minimum of three payment dates within the thirty days prior to a covered election. For purposes of such payment dates, the board shall provide each candidate with a written determination specifying the basis for any non-payment. The board shall provide

candidates with a process by which they may immediately upon receipt of such determination petition the board for reconsideration of any such non-payment and such reconsideration shall occur within five business days of the filing of such petition. In the event that the board denies such petition then it shall immediately notify the candidate of its right to appeal to appeal pursuant to article 78 of the civil practice law and rules.

§8. Subdivision 8 of section 3-708 of the administrative code of the city of New York, as separately amended by local laws numbered 58, 59 and 60 for the year 2004, is amended to read as follows:

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, section 3-706, subdivision 1-a of section 3-703, section 3-718, and section 3-719 in accordance with the schedule specified by the state board of elections for the filing of campaign receipt and expenditure statements.

§9. Paragraphs (a) and (b) of subdivision 5 of section 3-709.5 of the administrative code of the city of New York, as added by local law 58 for the year 2004, are amended, and a new subdivision 12 is added to read as follows:

(a) The written application shall:

- (i) demonstrate that the organization and any proposed co-sponsor meet the criteria of subdivision four of this section;
- (ii) specify the election and office for which the organization seeks to sponsor the debate;
- (iii) set forth the date, time, duration, and location of the debate and the specific and exclusive circumstances under which the date or time may be changed, together with a provision for when the rescheduled debate would be held;

- (iv) provide a detailed description of the format and ground rules for the debate;
- (v) verify that the staging, promotion, and coverage of the debate shall be in conformance with all applicable laws;
- (vi) include an agreement to indemnify the city for any liability arising from the acts or omissions of the sponsor; and
- (vii) set forth plans for publicity and for broadcast and other media coverage for the debate; and

(viii) set forth the criteria for determining which candidates are eligible to participate in each debate the organization seeks to sponsor, in accordance with paragraph (b) of this subdivision.

- (b) (i) Except as otherwise provided in subparagraph (ii) below, each debate for a primary, general or special election shall include only those participating candidates or limited participating candidates the sponsor of each such debate has determined meet the non-partisan, objective, and non-discriminatory criteria set forth in any agreement between the sponsor and the board; provided, however, that the criteria for the first debate for a primary, general, or special election shall provide, among other criteria, (A) that a participating candidate shall be eligible to participate in such debate if he or she has, by the last filing date prior to such debate, [either] (I) spent, contracted, or obligated to spend, [or] and (II) received in contributions, an amount equal to or more than twenty percent of the threshold for eligibility for public funding applicable to participating candidates contained in subdivision two of section 3-703, and (B) that a limited participating candidate shall be eligible to participate in such debate if he or she has, by the last filing date prior to such debate, spent, contracted, or obligated to spend, an amount equal to or more than twenty percent of the threshold for eligibility for public

funding applicable to participating candidates seeking the office for which such debate is being held contained in subdivision two of section 3-703; provided however, that for the purpose of determining whether a candidate has met the financial criteria to be eligible to participate in such debate, only contributions raised and spent in compliance with the act shall be used to determine whether the candidate has raised and spent twenty percent of the threshold for eligibility for public funding applicable to participating candidates contained in subdivision two of section 3-703; provided, further, that the second debate for a primary, general, or special election shall include only those participating candidates or limited participating candidates who the sponsor has also determined are leading contenders on the basis of additional non-partisan, objective, and non-discriminatory criteria set forth in any agreement between the sponsor and the board. Nothing in this provision is intended to limit the debates to the two major political parties.

(ii) If a debate sponsor has determined that a non-participating candidate has met all the non-partisan, objective, and non-discriminatory criteria applicable to participating candidates or limited participating candidates for access to any of the primary, general, or special election debates, the sponsor may invite that candidate to participate in such debate. In the case of a run-off primary election or a run-off special election, the sponsor may invite a non-participating candidate to participate in such debate. However, if a non-participating candidate does not accept such invitation to debate or does not appear at such debate, the debate shall go forward as scheduled; provided, however, if there is only one participating candidate or limited participating candidate participating in any such debate, [upon agreement by the debate sponsor, the board and the potential debater,] such debate [may] shall be canceled.

12. The city of New York shall indemnify each sponsor for any liability of such sponsor arising out of the acts or omissions of the city of New York in connection with the selection of candidates for participation in any debate, held pursuant to this section 3-709.5.

§10. Paragraph b of subdivision 2 of section 3-710 of the administrative code of the city of New York, as amended by local law 69 for the year 1990, is amended to read as follows:

b. If the board determines that any portion of the payment made to a principal committee of a participating candidate from the fund was used for purposes other than qualified campaign expenditures, it shall notify such candidate and committee of the amount so disqualified and such candidate and committee shall pay to the board an amount equal to such disqualified amount; provided, however that in considering whether or not a participating candidate shall be required to pay to the board such amount or an amount less than the entire disqualified amount, the board shall act in accordance with the following: (i) where credible documentation supporting each qualified campaign expenditure exists but is incomplete, the board shall not impose such liability for such expenditure; (ii) where there is an absence of credible documentation for each qualified campaign expenditure, the board may impose liability upon a showing that such absence of credible documentation for such expenditure arose from a lack of adequate controls including, but not limited to trained staff, internal procedures to follow published board guidelines and procedures to follow standard financial controls.

§11. Paragraph b of subdivision 1 of section 3-719 of the administrative code of the city of New York, as added by local law 60 for the year 2004, is amended to read as follows:

(b) A non-participating candidate, and the authorized committees of such a non-participating candidate, shall comply with the same requirements as a participating candidate who files a certification pursuant to paragraph (c) of subdivision one of section 3-703 of this chapter as provided in paragraphs (d) and (g) of such subdivision, subdivision one-b of section 3-703, and subdivisions six, six-a and eight of section 3-703 of this chapter.

§12. Paragraph b of subdivision 2 of section 3-719 of the administrative code of the city of New York, as added by local law 60 for the year 2004, is amended to read as follows:

(b) A non-participating candidate, and the authorized committees of such a non-participating candidate, shall only accept contributions as limited by the provisions of paragraphs (f) and (l) of subdivision one of section 3-703, [and] subdivision 1-a of section 3-703, and subdivision ten of section 3-703 of this chapter. Notwithstanding any contribution limitations in paragraphs (f) and (h) of subdivision one of section 3-703 and subdivision 1-a of section 3-703, a non-participating candidate may contribute to his or her own nomination for election or election with his or her personal funds or property, in-kind contributions made by the candidate to his or her authorized committees with the candidate's personal funds or property, and advances or loans made by the non-participating candidate with the candidate's personal funds or property. A candidate's personal funds or property shall include his or her funds or property jointly held with his or her spouse, domestic partner, or unemancipated children.

§13. Paragraph 1 of subdivision a of section 1052 of chapter 46 of the New York city charter, as amended by vote of the electors of the city of New York at a general election held on November 3, 1998, is amended to read as follows:

§ 1052. Campaign finance board. a. 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 speaker 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 speaker. The members shall first be appointed to serve as follows:

- (a) one member appointed by the speaker 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 speaker 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 speaker, according to the original manner of appointment. Upon expiration of the term of a member, if the mayor or the speaker, as appropriate, shall fail to appoint a member within one hundred twenty days of the expiration of such term, the member whose term has expired shall be deemed appointed for an additional term of five years, provided, however, that if the expiration of such term occurs in a year in which elections, except special elections, covered by the voluntary system of campaign finance reform are scheduled, the member whose term has expired shall be deemed appointed for an additional term of five years if the mayor or the speaker, as appropriate, shall fail to appoint a member within ninety days of the expiration of such term. In case of a vacancy in the office of a member, a member shall be appointed to serve the remainder of the unexpired term by the mayor or the speaker, according to the original manner of appointment. If the mayor or the speaker, as appropriate, shall fail to appoint a member within one hundred eighty days of such vacancy, then a member shall be appointed by the board to serve for the remainder of the unexpired term, if additional time remains in such term, provided, however, that if such vacancy occurs in a year, or within ninety days prior to a year, in which elections, except special elections, covered by the voluntary system of campaign finance reform are scheduled, then a member shall be appointed by the board to serve for the remainder of the unexpired term, if additional time remains in such term, if the mayor or the speaker, as appropriate, shall fail to appoint a member within ninety days of such vacancy. Except for the chairperson, such member shall not be enrolled in the same political party as the other member appointed by the official who failed to so appoint. 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, public advocate, 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 any local law

establishing a voluntary system of campaign finance reform. 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, public advocate, 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 of the administrative code and the employees of such lobbyists shall not be eligible to be members of the board. In appointing members to the board, the mayor and the speaker shall consider campaign experience in general and particularly campaign experience with the New York city campaign finance system. Members of the board shall be required to undergo training developed pursuant to paragraph 14 of this section.

§14. Subdivision a of section 1052 of chapter 46 of the New York city charter, as amended by vote of the electors of the city of New York at a general election held on November 3, 1998, is amended by adding a new paragraph 14 to read as follows:

14 a. The council and the mayor, in conjunction with the campaign finance board, shall develop a curriculum to be used to train members of the campaign finance board and staff. Such curriculum shall include the issues and problems confronted by campaigns for covered office and how the application and enforcement of the city's campaign finance laws impacts these campaigns.

§15. Paragraph 5 of subdivision a of section 1052 of chapter 46 of the New York city charter, as amended by vote of the electors of the city of New York at a general election held on November 3, 1998, is amended to read as follows:

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 any voluntary system of campaign finance reform established by local law 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. Notwithstanding any other provision of law,

the investigative and adjudicatory powers and functions of the staff to the board shall be separate and no staff member of the board shall perform both investigative and adjudicatory tasks or functions.

§16. Subdivision 12 of section 3-702 of the administrative code of the city of New York, as amended by local law 58 for the year 2004, is amended to read as follows:

12. The term “intermediary” shall mean an individual, corporation, partnership, political committee, employee organization or other entity which, (i) 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 other authorized committee; or (ii) solicits contributions to a candidate or other authorized committee where such solicitation is known to such candidate or his or her authorized committee. For purposes of clause (ii) of this subdivision only persons clearly identified as the solicitor of a contribution to the candidate or his or her authorized committee shall be presumed to be known to such candidate or his or her authorized committee.

“Intermediary” shall not include spouses, domestic partners, parents, children or siblings of the person making such contribution, or any fundraising agent, as such term is defined in the rules of the board or any hosts of a campaign sponsored fundraising event paid for in whole or in part by the campaign. Where there are multiple individual hosts for a non-campaign sponsored event, the hosts shall designate one such host as the intermediary.

§17. Section 3-702 of the administrative code of the city of New York is amended by adding a new subdivision 19 to read as follows:

19. a. For purposes of campaigns that accept public funds pursuant to section 3-705 of this chapter, the terms “expenditure” and “campaign expenditure” shall include all payments and liabilities in furtherance of a political campaign for covered office, including, but not limited to, all qualified campaign expenditures and expenditures subject to or exempt from the expenditure limitations of this chapter pursuant to sections 3-706 and 3-712. In addition, there shall be a rebuttable presumption that the following expenditures are in furtherance of a political campaign for elective office; provided, however that the presumptions contained in

this subdivision shall not apply to an expenditure made when the expenditure is to a person or entity associated with the candidate making such expenditure or on whose behalf such candidate's committee made such expenditure; and provided further that in rebutting any such presumption the campaign finance board may consider factors including the timing of the expenditure and whether the campaign had an unusually high amount of spending on a particular type of expenditure. For purposes of this subdivision a person or entity associated with a candidate includes a spouse, domestic partner, child, parent, sibling, or a person with whom the candidate has a business or other financial relationship:

1. Contributions to charitable organizations designated as 501(c)(3) organizations pursuant to the internal revenue code;
2. Contributions to candidates and political committees subject to the provisions of section 3-705 (8);
3. Community events including, but not limited to, events hosted by civic associations and neighborhood association; provided, however that this presumption shall not apply to sporting events, concerts, theater or other entertainment events which shall be subject to the provisions of paragraph b;
4. Ballot proposal advocacy where there are indicia that the expenditure relates to the candidate;
5. Travel related solely and exclusively to a political campaign for a covered office or the holding of public office; provided, however that any travel not related solely and exclusively to a political campaign or the holding of public office shall be subject to the provisions of paragraph b;
6. Legal defense of a non-criminal matter arising out of a political campaign;
7. Computer hardware, software and other office technology purchased more than two weeks before the date of a primary election, in the case of a candidate who is opposed in the primary election, or two weeks before the date of a general election, in the case of a candidate who was not opposed in a primary election;
8. A post-election event for staff, volunteers and/or supporters held within thirty days of the

election;

9. Payment of non-criminal penalties or fines arising out of a political campaign;

10. Costs incurred in demonstrating eligibility for the ballot, public funds payments or defending against a claim that public funds must be repaid;

11. Food and beverages provided to campaign workers and volunteers; and

b. Campaign funds shall not be converted by any person to a personal use which is unrelated to a political campaign. Expenditures not in furtherance of a political campaign for elective office include the following:

1 Expenditures to defray the normal living expenses of the candidate, immediate family of the candidate, or any other individual except for the provision of such expenses for professional staff as part of a compensation package;

2. Any residential, or household items, supplies or expenditures;

3. Clothing, haircuts and other personal grooming;

4. Funeral, cremation, or burial expenses including any expenses related to a death within a candidate's or officeholder's family;

5. Automobile purchases;

6. Tuition payments, childcare costs;

7. Dues, fees, or gratuities at a country club, health club, recreational facility or other nonpolitical organization unless part of a specific fundraising event that takes place on the organization's premises;

8. Admission to a sporting event, theater, concert or other entertainment event not part of a specific campaign activity;

9. Expenditures for non-campaign related travel, food, drink or entertainment; if a candidate uses campaign funds to pay expenses associated with travel that involves both personal activities and campaign activities, the incremental expenses that result from the personal activities shall be considered for personal use unless the person benefiting from the use reimburses the campaign account within thirty days for the full

amount of the incremental expenses; and

10. Gifts, except for brochures, buttons, signs and other campaign materials and token gifts valued at not more than fifty dollars that are for the purpose of expressing gratitude, condolences or congratulations.

§18. Paragraph (l) of subdivision 1 of section 3-703 of the administrative code of the city of New York, as separately amended by local laws 58 and 60 for the year 2004, is amended to read as follows:

(l) not accept and his or her principal committee or authorized committees must not accept, either directly or by transfer, any contribution, loan, guarantee, or other security for such loan from any corporation, limited liability company, limited liability partnership, or partnership other than a corporation, limited liability company, limited liability partnership, or partnership that is a political committee as defined in subdivision eleven of section 3-702 of this chapter, for all covered elections held in the same calendar year in which he or she is a participating or non-participating candidate, provided, however, that where a contribution is from a contributor whose name is followed by a professional designation including but not limited to “M.D.”, “Esq.” and “C.P.A.” the board shall not treat such contribution as coming from a corporation, limited liability company or limited liability partnership or partnership in the absence of further indicia that such contribution is from such an entity;

§19. Subdivision 1 of section 3-703 of the administrative code of the city of New York is amended by adding a new paragraph (o) to read as follows:

(o) agree that expenditures by his or her principal committee for the purpose of advocating a vote for or against a proposal on the ballot in an election that is also a covered election shall be subject to the contribution and expenditure limitations applicable in such covered election.

§20. Paragraphs (g) and (h) of subdivision 2 of section 3-704 of the administrative code of the city of New York, paragraph (g) as added by local law 60 for the year 1990 and paragraph (h) as amended by local law 12 for the year 2003, are amended, and new paragraphs (i), (j) and (k) are added to such section to read as follows:

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

(h) any expenditure to challenge or defend the validity of petitions of designation or nomination, or of certificates of nomination, acceptance, authorization, declination, or substitution, and expenses related to the canvassing of election results, made pursuant to subdivision four of section 3-706[.];

(i) an expenditure made primarily for the purpose of expressly advocating a vote for or against a ballot proposal, other than expenditures made also to further the participating candidate's nomination for election or election;

(j) payment of any penalty or fine imposed pursuant to federal, state or local law;

(k) payments made through advances, except in the case of individual purchases in excess of two hundred fifty dollars.

§21. Paragraph (a) of subdivision (2) of section 3-705 of the administrative code of the city of New York, as amended by local law 58 for the year 2004, is amended to read as follows: If the threshold for eligibility is met, the participating candidate's principal committee shall receive payment for qualified campaign expenditures of [four] six dollars for each one dollar of matchable contributions, up to one thousand fifty dollars in public funds per contributor (or up to five hundred twenty-five dollars in public funds per contributor in the case of a special election), obtained and reported to the campaign finance board in accordance with the provisions of this chapter.

§22. Paragraph a of subdivision (7) of section 3-705 is REPEALED and paragraph c of subdivision (7) of section 3-705 of the administrative code of the city of New York, as added by local law 12 for the year 2003, is amended to read as follows:

(c) the participating candidate has submitted a certified signed statement attesting to the need and stating the reason for additional public funds in such election, in which case the board shall publish such statement at the time such additional public funds are paid, including on the board's internet website. Such statement must certify that (i) one or more of the following conditions applies and provide documentation in

support of such condition and (ii) that such condition or conditions reasonably demonstrates the need for such public funds.

(1) the participating candidate is opposed by (i) a non-participating candidate or (ii) a limited participating candidate, and provides a factual basis with supporting documentation of such candidate's ability to self finance;

(2) the participating candidate is opposed by a candidate who has received (i) the endorsement of a citywide or statewide elected official or a federal elected official representing all or a portion of the area covered by the election; (ii) two or more endorsements from other city elected officials who represent all or a part of the area covered by the election; or (iii) endorsements of one or more membership organizations with a membership of over 250 members;

(3) the participating candidate is opposed by a candidate who has had significant media exposure in the twelve months preceding the election. For purposes of this paragraph, significant media exposure shall mean appearance of the opponent or his or her name in television, radio or print media in general circulation in the area of the covered election at least twelve times in the year preceding the covered election; provided, however that the listing of names of candidates or potential candidates for a covered election without additional information concerning the opponent shall not constitute an appearance for purposes of this paragraph;

(4) the participating candidate is opposed by a candidate who has received twenty-five percent or more of the vote in an election for public office in an area encompassing all or part of the area that is the subject of the current election in the last eight years preceding the election;

(5) the participating candidate is opposed by a candidate whose name is substantially similar so as to result in confusion among voters, as determined by the board;

(6) the participating candidate in a city council or borough-wide race is opposed by a candidate who is a chairman or president of a community board or district manager of a community board; or

(7) the participating candidate is opposed by a candidate whose spouse, domestic partner, sibling, parent or child hold or have held elective office in an area encompassing all or part of the area that is the subject of the current election in the past ten years.

The board shall be authorized to verify the truthfulness of any certified statement submitted pursuant to this paragraph and of any supporting documentation and shall post such certifications and supporting documentation on its website.

(d) the participating candidate is opposed in a primary or special election for an office for which no incumbent is seeking re-election.

If any of the conditions described in paragraphs (a), (b), [or] (c) or (d) occur in such election, the board shall pay any and all additional public funds due to the participating candidate up to the maximum total payment applicable in such election under subdivisions two or six of this section or subdivision three of section 3-706 of this chapter.

§23. Subdivisions 1, 2 and 4 of section 3-706 of the administrative code of the city of New York, as added by local law 58 for the year 2004, are amended to read as follows:

1. The following limitations apply to all expenditures made by a candidate and his or her principal committee 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, in each special election to fill a vacancy, and in each general election, expenditures by a participating candidate or a limited participating candidate and his or her principal committee for one of the following offices shall not exceed the following amounts:

mayor:	[\$4,000,000] <u>\$6,157,600</u>
public advocate or comptroller:	[\$2,500,000] <u>\$3,849,575</u>
borough president:	[\$900,000] <u>\$1,385,675</u>
member of the city council:	[\$105,000] <u>\$161,250</u>

(b) (i) The expenditure limitation in a run-off primary election held pursuant to section 6-162 of the New York state election law or a run-off special election held to fill a vacancy 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.

(ii) The board shall promulgate rules to provide for a separate expenditure limit applicable to campaign expenditures for an additional day for voting held pursuant to section 3-108 of the New York state election law, an election held pursuant to court order, or a delayed or otherwise postponed election.

(c) Expenditures by participating or limited participating 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 two thousand [eighteen] ten 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 two thousand [fifteen] seven of such consumer price index; (ii) adjust each expenditure limitation applicable either pursuant to this subdivision or subdivision 2 of this section 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 participating or limited participating candidate and his or her principal committee in the three calendar years preceding the year of the election for which such candidate chooses to file a certification as a participating or limited participating candidate pursuant to 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 years. Such expenditures by a participating or limited participating candidate for one of the following offices and his or her principal committee shall not exceed the following amounts:

mayor, public advocate or comptroller:	[\$270,000] <u>\$290,250</u>
borough president:	[\$120,000] <u>\$129,000</u>
member of the city council:	[\$40,000] <u>\$43,000</u>

4. (a) Expenditures made for the purpose of [complying with the provisions of this chapter or the election law, including legal fees, accounting fees, the cost of record creation and retention, and other necessary compliance expenditures,]: (i) bringing or responding to any action, proceeding, claim or suit before any court or arbitrator or administrative agency to determine a candidate's or political committee's compliance with the requirements of this chapter, including eligibility for public funds payments, or pursuant to or with respect to election law or other law or regulation governing candidate or political committee activity or ballot status, (ii) expenses to challenge or defend the validity of petitions of designation or nomination or certificates of nomination, acceptance, authorization, declination or substitution, and expenses related to the canvassing or re-

canvassing of election results, and (iii) expenses related to the post-election audit shall not be limited by the expenditure limitations of this section.

(b) [In reviewing claims that expenditures are exempt from expenditure limitations by reason of paragraph (a) of this subdivision, the board shall not require the participating candidate or principal committee to provide detailed documentation substantiating such exempt expenditure claims unless the board has reason to believe that expenditures have been erroneously or falsely claimed to be exempt in disclosure reports.

(c) Notwithstanding paragraph (b) above, a] A participating candidate shall be required to provide detailed documentation substantiating all exempt expenditure claims made pursuant to this subdivision [if the aggregate exempt expenditure claims made by the participating candidate exceed an amount equal to seven and one-half percent of the participating candidate's applicable expenditure limitation].

§24. Subdivision 1 of section 3-708 of the administrative code of the city of New York, as amended by local law 48 for the year 1998, is amended to read as follows:

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 speaker 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 speaker. The members shall first be appointed to serve as follows:

- (a) one member appointed by the speaker 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 speaker 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.

(b) 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 speaker, 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 speaker, according to the original manner of appointment. In the case of a vacancy in the office of a member for which a member is holding over after expiration of the term for which the member was appointed, an appointment to such office made after June 1 in a year in which covered elections are scheduled shall not take effect prior to December 1 of that calendar year. 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, public advocate, 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, public advocate, 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. In appointing members to the board, the mayor and the speaker shall consider campaign experience in general and particularly campaign experience with the New York city campaign finance system. Members of the board shall be required to undergo training developed pursuant to paragraph 14 of subdivision a of section 1052 of the charter.

§25. Paragraph (b) of subdivision 7 of section 3-708 of the administrative code of the city of New York, as separately amended by local laws 58, 59, and 60 for the year 2004, is amended to read as follows:

(b) The board shall develop a program for informing candidates and the public as to the purpose and effect of the provisions of this chapter. The board shall prepare and make available educational materials, including compliance manuals and summaries and explanations of the purposes and provisions of this chapter.

These materials shall be prepared in plain language. The board shall prepare and make available materials, including, to the extent feasible, computer software, to facilitate the task of compliance with the disclosure and record-keeping requirements of this chapter. When disclosure reports are generated by use of the board's disclosure software, the board shall provide an opportunity for candidates to test their electronic filings on any of the three business days prior to the deadline for the filing of such disclosure reports. Any disclosure software issued by the board on or after January 1, 2008 shall enable users to meet their electronic disclosure obligations under this chapter and under article 14 of the election law, as amended by chapter 406 of the laws of 2005.

§26. Subdivision 1 of section 3-710 of chapter 7 of title 3 of the administrative code of the city of New York, as separately amended by local laws 58, 59 and 60 for the year 2004, is amended to read as follows:

§ 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 and of chapter 8 of title 3 of this code. The board shall conduct its campaign audits in accordance with generally accepted government auditing standards, and shall issue rules regarding what documentation is sufficient in demonstrating financial activity. These audit and examination powers extend to all participating candidates, limited participating candidates, and non-participating candidates, and the principal and authorized committees of all participating, limited participating, and non-participating candidates, provided that:

a. Any draft audit, the subject of which is a participating, limited participating, or non-participating candidate, or the principal and/or authorized committees of any participating, limited participating, or non-participating candidate shall be completed within (i) eight months after the submission of the final disclosure report for the covered election for city council races and borough-wide races; and (ii) ten months after the submission of the final disclosure report for the covered election for citywide races, unless the subject of such audit consents in writing to a longer period of time;

b. The campaign finance board shall provide each candidate a final audit, which shall contain the final resolution of all issues raised in the draft audit; such final audit shall be provided to the candidate, where such candidate or such candidate's campaign manager or treasurer has completed audit training provided by the board, (i) within fourteen months after the submission of the final disclosure report for the covered election, for city council races and borough-wide races; and (ii) sixteen months after the submission of the final disclosure report for the covered election for citywide races, unless the subject of such audit consents in writing to a longer period of time. Where such candidate or such candidate's campaign manager or treasurer has not completed audit training provided by the campaign finance board, such final audit shall be provided to such candidate (i) within sixteen months after the submission of the final disclosure report for the covered election, for city council races and borough-wide races; and (ii) eighteen months after the submission of the final disclosure report for the covered election for citywide races, unless the subject of such audit consents in writing to a longer period of time. Provided, however, that where the issuance of such final audit is preceded by a notice of violations and recommended penalties and/or a notice of repayment of public funds, such notice or notices shall include all potential penalties and/or repayment obligations and a notice of a candidate's right to a hearing pursuant to section 3-710.5 or section 3-710(4) of this chapter and shall be provided to the candidate according to the deadlines applicable to final audits as set forth in this paragraph.

c. Any advice provided by board staff to participating, limited participating, or non-participating candidates with regard to an action shall be presumptive evidence that such action taken in reliance on such advice should not be subject to a penalty or repayment obligation where such candidate, or such candidate's committee has confirmed such advice in a writing to such board staff by registered or certified mail to the correct address, or by electronic or facsimile transmission with evidence of receipt, that describes the action to be taken pursuant to the advice given and the board or its staff has not responded to such written confirmation within seven business days disavowing or altering such advice, provided that the board's response shall be by registered or certified mail to the correct address, or by electronic or facsimile transmission with evidence of

receipt.

d. Notwithstanding the provisions of paragraphs a and b of this section, if a committee has failed to respond to a request for information made by board auditors during the post-election audit process, the time period for completing the draft and final audits shall be tolled and extended by the number of days by which the committee has exceeded the original deadline for a response, provided that the committee has received timely written notice of: (a) the original deadline to provide the information, which shall not have been less than thirty days from the date such information was requested, and (b) the commencement of the tolling period pursuant to this section. If a committee has responded to a request for information made by board auditors but such response is inadequate, the time period for completing the draft and final audits shall be tolled and extended by the number of days until an adequate response is provided, provided that the committee has received timely written notice of: (a) the original deadline to provide the information, which shall not have been less than thirty days from the date such information was requested, (b) the commencement of the tolling period pursuant to this section and (c) the detailed reasons why the original response was inadequate.

e. Notwithstanding any provision of law to the contrary, the deadlines provided in subdivisions a and b of this section for the completion of draft and final audits shall not apply in cases where the audit raises issues involving potential campaign-related fraud, potential other criminal activity, activity that may constitute a breach of certification pursuant to rules of the board, or potential significant violations of the limits set forth in section 3-706.

f. Notwithstanding any provision of the law to the contrary, the deadlines provided in subdivisions a and b of this section for the completion of draft and final audits shall not apply in the event that board operations are interrupted due to a catastrophic emergency such as a natural disaster or criminal event, provided that once board operations resume, the board shall within two weeks announce new deadlines for the completion of draft and final audits consistent with provisions a and b.

§27. Paragraph (c) of subdivision 2 of section 3-710 of the administrative code of the city of New York,

as amended by local law 69 for the year 1990, is amended to read as follows:

2. (c) (i) If the total of contributions, other receipts, and payments from the fund received by a participating candidate and his or her principal committee exceed the total campaign expenditures of such candidate and committee for all covered elections held in the same calendar year or for a special election to fill a vacancy such candidate and committee shall use such excess funds to reimburse the fund for payments received by such committee from the fund during such calendar year or for such special election. [Such reimbursement shall be made not later than ten days after all liabilities have been paid and in any event, not later than either the closing date of the final disclosure report, or the day on which the campaign finance board issues its final audit report for such participating committee, for such covered election, as shall be set forth in rules promulgated by the campaign finance board.] No such excess funds shall be used for any other purpose, unless the total amount of the payments received from the fund by the principal committee has been repaid.

§28. Section 3-710 of the administrative code of the city of New York is amended by adding a new subdivision 4 to read as follows:

4. (a) No claim for the repayment of public funds shall be made against any candidate or committee without written notice to such candidate or committee, issued in a timely manner pursuant to the all of the requirements of subdivision one of this section, and a reasonable opportunity to appear before the board. Any such repayment claim shall be based on a final determination to be issued by the board following an adjudication before the board consistent with the procedures set forth in section 1046 of the charter unless such procedures are waived by the candidate or principal committee. Such final determination shall be included in and made part of the final audit which shall be issued within thirty days of such determination.

§29. Section 3-710.5 of the administrative code of the city of New York, as separately amended by local laws 58, 59 and 60 for the year 2004 is hereby amended to read as follows:

§ 3-710.5 Findings of violation [or] infraction; adjudications; or final determinations. (i) The board shall determine whether a participating candidate, his or her principal committee, principal committee treasurer

or any other agent of a participating candidate has committed a violation or infraction of any provision of this chapter or the rules promulgated hereunder, for which the board may assess a civil penalty pursuant to section 3-711 of this chapter. The board shall promulgate rules defining infractions, and such definitions shall include, but not be limited to, failures to comply with the provisions of this chapter or the rules promulgated hereunder that are limited and non-repetitive.

(ii) The board shall give written notice and the opportunity to appear before the board to any participating, limited participating or non-participating candidate, his or her principal committee, authorized committee, committee treasurer or any other agent of such candidate, if the board has reason to believe that such has committed a violation or infraction before assessing any penalty for such action. Any such written notice of alleged violations shall be issued in a timely manner pursuant to all of the requirements of subdivision one of section 3-710 and shall precede the issuance of the final audit required pursuant to subdivision one of section 3-710. In the case of a written notice issued prior to the date of a covered election, or after the date of a covered election in the case of a notice regarding an alleged failure to respond to a request for audit documentation, such notice may be issued prior to the issuance of a draft audit. Alleged violations and proposed penalties shall be subject to resolution by adjudication before the board consistent with the procedures of section 1046 of the charter, unless such procedures are waived by the candidate or principal committee; provided, however, that in the case of adjudications conducted prior to the date of a covered election, the board shall use the procedures of section 1046 of the charter only to the extent practicable, given the expedited nature of such pre-election adjudications. The board shall issue a final determination within thirty days of the conclusion of the adjudication proceeding.

(b) The board shall include in every final determination: (i) notice of the respondents' right to bring a special proceeding challenging the board's final determination in New York State supreme court brought pursuant to article 78 of the civil practice law; and (ii) notice of the commencement of the four-month period during which such a special proceeding may be brought pursuant to article 2 of the civil practice law.

§30. Section 3-711 of the administrative code of the city of New York is amended by adding a new subdivision 4 to read as follows:

4. Notwithstanding any provision of law, any participating or limited participating candidate and his or her principal committee or any non-participating candidate and his or her authorized committees or any other person who commit any violation of this chapter or any rules promulgated hereunder and who take all steps necessary to correct such violation prior to receiving notice from the board of the existence of the potential violation pursuant to section 3-710.5 shall not be subject to any penalty for such violation.

§ 31. Paragraph (b) of subdivision 1 of section 3-718 of the administrative code of the city of New York, as separately added by local laws 58, 59 and 60 for the year 2004, is amended to read as follows:

(b) A limited participating candidate and his or her principal committee shall comply with the provisions of paragraphs (d), (e), (g), [and] (i), and (o) of subdivision one, and subdivisions six, six-a, eight, nine, ten, and twelve of section 3-703 of this chapter.

§32. Chapter 7 of title 3 of the administrative code of the city of New York is amended by adding a new section 3-720 to read as follows:

§3-720. Tolling of time for notice of violations or penalties.. If a committee has failed to respond to a request for information made by board auditors or has inadequately responded during the post-election audit process and the board has satisfied the provisions of subdivision 1 of section 3-710, the time period for serving notice shall be tolled and extended by the number of days by which the committee has exceeded the original deadline for a response, provided that the committee has received timely written notice of: (a) the original deadline to provide the information, which shall not have been less than thirty days from the date such information was requested, and (b) the commencement of the tolling period pursuant to this section.

§33. Paragraphs (b) and (c) of subdivision 2 of section 3-801 of the administrative code of the city of New York, paragraph (b) as amended by and paragraph (c) as added by local law 58 for the year 2004, are amended, and a new paragraph (d) is added to read as follows:

(b) not accept any donation or donations of money, goods, or services from any individual, [corporation, partnership,] political committee, employee organization, or entity which in the aggregate exceeds:

(i) four thousand five hundred dollars, in the case of a candidate elected to the office of mayor, public advocate, or comptroller;

(ii) three thousand five hundred dollars, in the case of a candidate elected to the office of borough president; or

(iii) two thousand five hundred dollars, in the case of a candidate elected to the office of member of the city council; [and]

(c) not incur any liabilities after January thirty-first in the year following the election, nor accept any donations after all liabilities are paid[.];and

(d) not accept any donation or donations of money, goods, or services from any corporation, limited liability company, limited liability partnership or partnership not permitted to contribute pursuant to paragraph (l) of subdivision 1 of section 3-703 or from any person whose name appears in the doing business database as of the date of such donation; provided, however, that this limitation on donations shall not apply to any donation made by a natural person who has business dealings with the city to a transition or inaugural committee where such donation is from the candidate-elect, or from the candidate-elect's parent, spouse, domestic partner, sibling, child, grandchild, aunt, uncle, cousin, niece or nephew by blood or by marriage.

§34. Paragraph a of subdivision 3 of section 3-706 is amended by adding a new subparagraph (iii) to read as follows:

(iii) with regard to contributions raised on or after January first, two thousand eight for elections occurring after such date, the campaign finance board shall promulgate rules to provide that the principal committees of such participating candidates shall receive payment for qualified campaign expenditures that will provide the highest allowable matchable contribution to be matched by an amount up to one thousand two hundred fifty dollars in public funds per contributor (or up to six hundred twenty five dollars in public funds

per contributor in the case of special election); provided, however, that (A) participating candidates in a run off election shall receive public funds for such election pursuant to subdivision five of section 3-705 and shall not receive any additional public funds pursuant to this section, and (B) in no case shall a principal committee receive in public funds an amount exceeding two-thirds of the expenditure limitation provide for such office in subdivision one of this section.

§35. Paragraph b of subdivision 3 of section 3-706 is amended by adding a new subparagraph (iii) to read as follows:

(iii) with regard to contributions raised on or after January first, two thousand eight for elections occurring after such date, the campaign finance board shall promulgate rules to provide that the principal committees of such participating candidates shall receive payment for qualified campaign expenditures that will provide the highest allowable matchable contribution to be matched by an amount up to one thousand five hundred dollars in public funds per contributor (or up to seven hundred fifty dollars in public funds per contributor in the case of special election); provided, however, that (A) participating candidates in a run off election shall receive public funds for such election pursuant to subdivision five of section 3-705 and shall not receive any additional public funds pursuant to this section, and (B) in no case shall a principal committee receive in public funds an amount exceeding two-thirds of the expenditure limitation provide for such office in subdivision one of this section.

§36. Each city agency with which any person who has business dealings with the city conducts such business shall, provide appropriate assistance in developing the doing business data base and shall take such steps as necessary to collect such information as required pursuant to this local law. Each city agency with which any person who has business dealings with the city conducts such business shall, at the board's request, provide appropriate assistance to the board in publicizing this local law and the rules of the board in connection with contributions of persons who have business dealings with the city; provided, however, that rules shall not

be provided to persons in categories of doing business activities before such categories are certified by the campaign finance board in accordance with section twenty-six of this local law.

§37. Sections one, two, eight, eleven, twelve and forty of this local law shall take effect immediately provided that the implementation of such sections shall take effect as follows: (i) all of the provisions of such sections concerning the holding of contracts for the procurement of goods, services or construction shall take effect thirty days after the campaign finance board and the department of information technology and telecommunications have certified to the mayor and council that there is a doing business database that identifies available information regarding chief executive officers, chief financial officers and/or chief operating officers or persons serving in an equivalent capacity, persons with an interest in an entity which exceeds ten percent of the entity and persons employed in a senior managerial capacity regarding an entity with a city contract pursuant to clause (i) of paragraph (a) of subdivision 18 of section 3-702 of the code as added by section one of this local law; (ii) all of the provisions of this local law concerning any bid or proposal for a contract for the procurement of goods, services or construction shall take effect thirty days after the campaign finance board and the department of information technology and telecommunications have certified to the mayor and council that there is a doing business database that identifies available information regarding chief executive officers, chief financial officers and/or chief operating officers or persons serving in an equivalent capacity, persons with an interest in an entity which exceeds ten percent of the entity and persons employed in a senior managerial capacity of entities that have submitted bids seeking such a contract; (iii) the provisions of this local law concerning acquisition or disposition of real property, applications for approvals sought pursuant to the provisions of section 195 or certified pursuant to section 197-c of the New York city charter shall take effect thirty days after the campaign finance board and the department of information technology and telecommunications have certified to the mayor and council that there is a doing business database that identifies available information regarding chief executive officers, chief financial officers and/or chief

operating officers or persons serving in an equivalent capacity, persons with an interest in an entity which exceeds ten percent of the entity and persons employed in a senior managerial capacity of an entity with such a real property transaction or land use approval pursuant to clause (ii) of paragraph (a) of subdivision 18 of section 3-702 of the code as added by section one of this local law; (iv) the provisions of this local law concerning franchises and concessions shall take effect thirty days after the campaign finance board and the department of information technology and telecommunications have certified to the mayor and council that there is a doing business database that identifies available information regarding chief executive officers, chief financial officers and/or chief operating officers or persons serving in an equivalent capacity, persons with an interest in an entity which exceeds ten percent of the entity and persons employed in a senior managerial capacity regarding an entity with a city franchise or concession pursuant to clause (iv) of paragraph (a) of subdivision 18 of section 3-702 of the code as added by section one of this local law; (v) all of the provisions of this local law concerning any bid or proposal for a franchise or concession shall take effect thirty days after the campaign finance board and the department of information technology and telecommunications have certified to the mayor and council that such database includes, available information regarding chief executive officers, chief financial officers and/or chief operating officers or persons serving in an equivalent capacity, persons with an interest in an entity which exceeds ten percent of the entity and persons employed in a senior managerial capacity of entities with a bid or a proposal for such a franchise or concession; (vi) all of the provisions of this local law concerning a recipient of a grant shall take effect thirty days after the campaign finance board and the department of information technology and telecommunications have certified to the mayor and council that there is a doing business database that identifies available information regarding chief executive officers, chief financial officers and/or chief operating officers or persons serving in an equivalent capacity, persons with an interest in an entity which exceeds ten percent of the entity and persons employed in a senior managerial capacity regarding an entity that is a recipient of a grant pursuant to clause (v) of paragraph (a) of subdivision 18 of section 3-702 of the code as added by section one of this local law; (vii) all of the provisions of this local

law concerning a party to an economic development agreement shall take effect thirty days after the campaign finance board and the department of information technology and telecommunications have certified to the mayor and council that there is a doing business database that identifies available information regarding chief executive officers, chief financial officers and/or chief operating officers or persons serving in an equivalent capacity, persons with an interest in an entity which exceeds ten percent of the entity and persons employed in a senior managerial capacity regarding an entity that is an applicant for or a party to an economic development agreement pursuant to clause (vi) of paragraph (a) of subdivision 18 of section 3-702 of the code as added by section one of this local law; (viii) all of the provisions of this local law concerning a contract for the investment of pension funds, including investments in a private equity firm and contracts with investment related consultants shall take effect thirty days after the campaign finance board and the department of information technology and telecommunications have certified to the mayor and council that there is a doing business database that identifies available information regarding chief executive officers, chief financial officers and/or chief operating officers or persons serving in an equivalent capacity, persons with an interest in an entity which exceeds ten percent of the entity and persons employed in a senior managerial capacity regarding an entity that is an applicant for or a party to a contract for the investment of pension funds, including investments in a private equity firm and contracts with investment related consultants pursuant to clause (vii) of paragraph (a) of subdivision 18 of section 3-702 of the code as added by section one of this local law; and (ix) all of the provisions of this local law concerning lobbyists shall take effect thirty days after the campaign finance board and the department of information technology and telecommunications have certified to the mayor and council that there is a doing business database that identifies lobbyists; and shall be applicable to all receipts, expenditures, and public funds claims after such effective dates for elections held after such effective dates; provided that, upon enactment of this local law, the campaign finance board shall take all necessary steps, including but not limited to the promulgation of forms and rules, to ensure the prompt implementation of this local law upon its effective date. Notwithstanding any provision of law to the contrary, the campaign

finance board and the department of information technology and telecommunication may certify any component of the doing business database enumerated in clauses (i) through (viii) of this section as complete when it has determined that each component identifies such persons with reasonable completeness and accuracy. Notwithstanding any provision of law to the contrary, immediately upon certification of each component of the doing business database pursuant to this section, the department of information technology and telecommunications shall provide to the Mayor and the Council an analysis of the steps taken to compile the component of the database certified and the campaign finance board shall provide to the Mayor and the Council an analysis of the steps taken to ensure and test for reasonable completeness and accuracy. Such report shall also demonstrate the process by which the department of information technology and telecommunications and the campaign finance board shall update the doing business database and ensure that names of persons no longer doing business with the city are removed. The deadline for certification of this section in relation to clauses (i) and (iv) shall be six months from the effective date of this local law; the deadline for certification of this section in relation to clauses (ii), (v), (vi), (vii) and (viii) shall be one year from the effective date of this local law; and the deadline for certification of this section in relation to clause (iii) shall be sixteen months from the effective date of this local law; provided, however, that any component of the doing business database that has not been certified on or before December 1, 2008 may not be certified until on or after November 30, 2009.

§38. Sections twenty-one, thirty-four and thirty-five of this local law shall take effect thirty days after the campaign finance board and department of information technology and telecommunications have certified to the mayor and council one component of the doing business database pursuant to section thirty-seven of this local law.

§39. With its 2009 post-election report, the campaign finance board shall submit a report to the council on the status of the doing business database. Such report shall contain the status of each of the components enumerated in clauses (i) through (viii) of section thirty-three of this local law and whether each such component has been certified, for those components that have not been certified, if any, what the status is of the

development of such component of the database and the expected timeline for such component's certification. The campaign finance board shall provide the council and the mayor with recommendations, if any, for exempting certain types of transactions, applications or agreements from the definition of business dealings with the city as defined in section one of this local law. If such proposals are submitted by the board, and such proposals are accepted by the council, or if the council fails to take action on such proposals within sixty days, such proposals shall take effect. Rejection of such proposals by resolution, or action by the council on amendments to the definition of business dealings with the city different from those contained in such proposals shall constitute action on such proposals.

§40. The mayor, the council and the campaign finance board shall form a task force to study the feasibility of including spouses, domestic partners, and unemancipated children in the restrictions on contributions from persons doing business with the city.

§41. Sections three through seven, nine, ten, thirteen through twenty, and twenty-two through thirty-three thirty-six and thirty-nine of this local law shall take effect on January 1, 2008; provided, however that such sections shall apply only to elections held on or after such effective date.