

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

1. **Article, Part or Sections Affected (as applicable)** **Rulemaking Action**  
R2-20-106 Amend
  
2. **Citations to the agency’s statutory rulemaking authority to include the authorizing statute (general) and the implementing statute (specific) and the statute or session law authorizing the exemption:**  
Authorizing statute: A.R.S. § 16-940, *et seq.*  
Implementing statute and statute authorizing the exemption: A.R.S. § 16-956(C).  
The Citizens Clean Elections Commission is exempt from Executive Order 15-01.
  
3. **The effective date of the rule and the agency’s reason it selected the effective date:**  
Not applicable.
  
4. **A list of all notices published in the Register as specified in R9-1-409(A) that pertain to the record of the exempt rulemaking:**  
Not applicable.
  
5. **The agency’s contact person who can answer questions about the rulemaking:**  
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6. **An explanation of the rule, including the agency’s reasons for initiating the rule, including the statutory citation to the exemption from regular rulemaking procedures:**  
On September 28, 2017, the Commission approved for publication proposed amendments to Commission rule R2-20-106. Commissioners would like to solicit public feedback on the proposed amendments allowing commission staff to address bank fees candidates get charged post-election, the cost of collecting the return of funds when there are de minimis amounts owed to the fund, and how to address post-return of funds demands by participating candidates that receive late bills. The following are the proposed amendments to the rule at issue:  
  
Amends R2-20-106 to require candidates to return funds to the Clean Elections Fund with a cashier’s check, to reconcile outstanding expenditures with personal monies, and allows the Commission staff to determine and waive de minimis return of fund amounts.
  
7. **A reference to any study relevant to the rule that the agency reviewed and either relied on or did not rely on in its evaluation of or justification for the rule, where the public may obtain or review each study, all data underlying each study, and any analysis of each study and other supporting material:**  
Not applicable
  
8. **A showing of good cause why the rule is necessary to promote a statewide interest if the rulemaking will diminish a previous grant of authority of a political subdivision of this state:**  
Not applicable
  
9. **The summary of the economic, small business, and consumer impact, if applicable:**  
Not applicable

10. **A description of any changes between the proposed rulemaking, including any supplemental proposed rulemaking, and final rulemaking package, (if applicable):**  
Not applicable.
11. **An agency's summary of the public or stakeholder comments made about the rulemaking and the agency response to the comments, if applicable:**  
On September 28, 2017, the Commission approved the proposed amendments publication on the Commission's website and in the Administrative Register. The Commission is soliciting public comment for 60 days. No action has been taken on the proposed amendments.
12. **Any other matters prescribed by statute that are applicable to the specific agency or to any specific rule or class of rules. When applicable, matters shall include, but not be limited to:**
- a. **Whether the rule requires a permit, whether a general permit is used and if not, the reasons why a general permit is not used:**  
Not applicable
- b. **Whether a federal law is applicable to the subject of the rule, whether the rule is more stringent than the federal law and if so, citation to the statutory authority to exceed the requirements of the federal law:**  
Not applicable
- c. **Whether a person submitted an analysis to the agency that compares the rule's impact of the competitiveness of business in this state to the impact on business in other states:**  
Not applicable
13. **A list of any incorporated by reference material and its location in the rules:**  
Not applicable
14. **Whether this rule previously made, amended, repealed or renumbered as an emergency rule. If so, the agency shall state where the text changed between the emergency and the exempt rulemaking packages:**  
The rule was not previously made, amended, repealed, or renumbered as an emergency rule.
15. **The full text of the rules follows:**

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

Section

R2-20-106 Distribution of funds to certified candidates

**ARTICLE 1. GENERAL PROVISIONS**

**R2-20-106. Distribution of funds to certified candidates**

- A. No change.
- B. No change.
- C. No change.
- D. No change.
- E. No change.
- F. No change.
- G. Pursuant to A.R.S. § 16-953(A), a participating candidate shall return to the Fund;
1. ~~All of his or her~~ primary election funds not committed to expenditures (1) during the primary election period; and (2) for goods or services directed to the primary election. A candidate shall not be deemed to have violated A.R.S. § 16-953(A) or this subsection on account of failure to use all materials purchased with primary election funds prior to the primary election, provided such candidate exercises good faith and diligent efforts to comply with the requirement that goods and services purchased with primary election

funds be directed to the primary election. Subject to A.R.S. § 16-953(A) and this subsection, a candidate may continue to use goods purchased with primary election funds during the general election period.

2. All general funds not committed to expenditures (1) during the general election period; and (2) for goods or services directed to the general election.

**H.** All funds returned to the Commission pursuant to subsection (G) of this rule, shall be returned to the Fund by a cashier's check drawn on the candidate's campaign bank account. Any fee associated with the issuance of a cashier's check shall be deemed a direct campaign expenditure and reported on the candidate's campaign finance report.

**I.** If a participating candidate does not account for any outstanding expenditures in the amount of the funds returned to the Commission, the participating candidate must reconcile the outstanding expenditures with personal monies. Once funds have been returned to the Commission, no further reimbursements from the Clean Elections Fund shall be permitted. Participating candidates may not exceed the primary or general election spending limits.

**J.** Commission staff may waive the return of funds if:

1. The Commission staff determines the amount to be returned is de minimus;
2. The Commission staff determines the cost of recovery exceeds the amount of the return;
3. The funds to be returned shall not exceed \$25; and
4. The Commission is notified of any waiver of the return of funds.