

## CLEAN ELECTIONS MEASURE

Section 1. Chapter 2, Article 7 of the San Diego Municipal Code, titled Elections, Campaign Finance and Lobbying, is amended to add Division 33, San Diego Clean Elections Ordinance, Sections 27.3301 through 27.3318, to read as follows:

Division 33: San Diego Clean Elections Ordinance

### §27.3301 Title

This division shall be titled and cited as the San Diego Clean Elections Ordinance.

### §27.3302 Purpose and Intent

It is the purpose and intent of the people of the City of San Diego in enacting this division to provide a voluntary program of public financing for candidates in municipal elections to help achieve the following objectives: to give neighborhoods a better chance of being heard at City Hall; to enable neighborhood-based candidates who might otherwise be well-qualified but lack the support of large campaign contributors to compete for municipal office; to strengthen the rights of all citizens to equal and meaningful participation in the democratic process; to facilitate the free speech rights of all candidates and voters by providing candidates with resources they might not otherwise have access to with which to communicate with the voters; to support the First Amendment right of voters and candidates to be heard in the political process; to support the core First Amendment value of open and robust debate in the political process; to diminish any public perception of corruption and strengthen public confidence in the democratic process and democratic institutions; and to increase the accountability of elected officials to the constituents who elect them.

(O-2021-2)

-PAGE 7 OF 33-

This division provides that the City of San Diego Ethics Commission (Ethics Commission) will administer this public financing program, with the assistance of the City Clerk, the City Treasurer, the Department of Finance, the Chief Financial Officer, and any other necessary City departments recommended by the Ethics Commission and later added to this division by an action of the City Council. The Ethics Commission will conduct independent audits of campaigns and campaign funds, and monitor candidates. The Ethics Commission will serve as the Enforcement Authority for violations of this division, pursuant to sections 27.3315 and 27.3316.

This division is enacted in accordance with the City of San Diego's governing election laws.

### §27.3303 Definitions

In addition to the definitions provided in Chapter 2, Article 7, of the San Diego Municipal Code and in the California Government Code, as part of the Political

(O-2021-2)

-PAGE 8 OF 33-

Reform Act, Sections 82000 et seq., and as such sections may be amended, the following terms shall be defined as follows for this division:

Clean Elections Fund means the San Diego Clean Elections Fund established pursuant to section 27.3305.

Clean Elections Program means the voluntary program of public financing for participating candidates for City Council, as set forth in this division.

Covered office means the office of City Council

Election includes any primary, general, recall, special or runoff election

Enforcement Authority means the City of San Diego Ethics Commission. Nothing in this article limits the authority of the City Attorney, any law enforcement agency, or any prosecuting attorney to enforce the provisions of this article under any circumstances where the City Attorney, law enforcement agency, or prosecuting attorney otherwise has lawful authority to do so.

(O-2021-2)

-PAGE 9 OF 33-

Ethics Commission means the City of San Diego Ethics Commission.

Expenditure ceiling means the limit on expenditures during the primary election campaign period and during the general election campaign period by each candidate who qualifies for disbursements from the Clean Elections Fund.

Exploratory period means the period beginning January 1 of the year prior to the expected date of a primary election and ending on the day a candidate is certified by the Ethics Commission as a participating candidate pursuant to section 27.3307. This is the period during which candidates seeking to qualify as participating candidates in the Clean Elections Program are permitted to raise and spend a limited amount of private seed money. The distribution of monies to all certified Clean Elections candidates shall be done at the same time but not later than January 1st of the election year.

General election campaign period means the period beginning the day after the primary election and ending at the close of the day of the general election.

Nonparticipating candidate means:

- (a) a candidate who is on the ballot but has chosen not to apply for Clean Elections Fund campaign funding;
- (b) a candidate who is on the ballot and has applied but has not qualified to

receive Clean Elections Funding.

(O-2021-2)

-PAGE 10 OF 33-

Participating candidate means a candidate who chooses to participate in and qualifies for the Clean Elections Program.

Primary election campaign period means the period beginning on the day a candidate is certified by the Ethics Commission as a participating candidate pursuant to section 27.3307 and ending at the close of the day of the primary election.

Professional Expense Committee is defined, established, operated and terminated pursuant to sections 27.2965 to 27.2969 of the Municipal Code.

Professional Expense Committee contribution means a contribution to a Professional Expense Committee.

Qualifying contribution means a contribution of \$5 made by an individual who is a registered voter in a candidates district and that is acknowledged by a written receipt identifying the contributor, the

(O-2021-2)

-PAGE 11 OF 33-

candidate for whom the contribution is made, and the solicitor of the contribution as set forth in section 27.3307(b). No individual shall knowingly make more than one \$5 contribution to any one candidate per race nor be reimbursed for the contribution.

Qualifying period means the period during which candidates are permitted to collect qualifying contributions in order to qualify for the Clean Elections Program. The period begins January 1 of the year prior to the expected date of the primary election for that office and ends January 1 prior to the primary election.

Seed money means an aggregate amount of private contributions from individuals that may be raised during the exploratory period for the purpose of seeking eligibility to the Clean Elections Program not to exceed \$7,500.

(O-2021-2)

-PAGE 12 OF 33-

§27.3304 Administration of the Clean Elections Program and the Clean Elections Fund

(a) The Ethics Commission shall administer the Clean Elections Program and

the Clean Elections Fund with the assistance of the City Clerk, the City Treasurer, the Department of Finance, the Chief Financial Officer, and any other necessary City departments recommended by the Ethics Commission to be added to this division and later added by implementing ordinance of the City Council after the measure is approved.

(b) The Ethics Commission shall adopt rules to carry out the purposes of this division. The Ethics Commission shall propose and adopt such rules in public meetings, in compliance with the Ralph M. Brown Act, with two hearings on proposed rules to provide additional time for public comment.

(c) The Ethics Commission shall:

- (1) Prepare and publish written instructions explaining the Clean Elections Program to candidates and committees;
- (2) Conduct workshops explaining the Clean Elections Program to candidates and committee treasurers;
- (3) Develop and distribute forms appropriate for administration of the Clean Elections Program;
- (4) Develop vigorous audit procedures to verify that a candidate's qualifying contributions are from the stated sources, develop procedures to otherwise determine eligibility for public financing as provided in this division, and develop audit procedures to track the spending of

(O-2021-2)

-PAGE 13 OF 33-

elections funding provided by the City; and conduct timely fiscal audits to ensure compliance with the provisions of this division. Audits shall include those of candidate expenditures to assess compliance with the "Use of Public Funds" restrictions established by section 27.3311;

- (5) Work with the Chief Financial Officer, Department of Finance and City Comptroller to ensure that campaign money is directed to, appropriations are being made to, and disbursements made from, the Clean Elections Fund established by section 27.3305;
- (6) Monitor compliance with the provisions of this division;
- (7) Enforce or cause to be enforced the provisions of this division;
- (8) Adopt a logotype for the use of Clean Elections Program participating candidates that shall be used to indicate the candidates' participation in the Clean Elections Program, which shall be used only by participating candidates on such printed literature as they may publish (nonparticipating candidates are prohibited from using the logotype); the logotype shall also be prominently displayed as part of a participating candidate's statement in the voter pamphlet, and shall also precede such candidate's name on the ballot, if such logotype complies with governing law for ballot materials;

(O-2021-2)

-PAGE 14 OF 33-

- (9) Select sponsors for debates among candidates, using procedures to

later be implemented by the Ethics Commission, and pursuant to the following provisions:

(A) Organizations that are not affiliated with any political party or with any holder of or candidate for public office, and that have not endorsed any candidate who is seeking election in the pending municipal election or endorsed such candidate in an election in the previous four years, shall be eligible to apply to the Ethics Commission to sponsor one or more debates. The rules for conducting such debates shall be solely the responsibility of the sponsor selected but shall not be made final without consultation with the Ethics Commission. The sponsor selected shall be responsible for choosing the date, time and location of the debates.

(B) Participating candidates for a contested City Council office shall be required to participate in two debates prior to the primary election and two debates prior to the general

(O-2021-2)

-PAGE 15 OF 33-

election, provided that there are qualified sponsors available and willing to host such debates;

(D) Nonparticipating candidates shall be invited and permitted to participate in these debates;

(E) Sponsors shall arrange to have the debates videotaped so the public can view them, and arrange to have them televised or live-streamed if possible, to ensure that such debates are made available to voters; and

(10) Such other duties as may be added or amended by subsequent rules adopted by the Ethics Commission and by subsequent actions of the City Council, as necessary for the operation and maintenance of the program.

(d) Based on candidate participation levels in the first election for each covered office after the effective date of this ordinance, and any election for a covered office thereafter, within six months after such election, the Ethics Commission may propose rules changing the number of qualifying contributions required for any candidate covered by this article by no more than twenty (20) percent of the number applicable for the preceding election. Under no circumstances shall the number of qualifying contributions required by candidates for City Council be less than 240.

(O-2021-2)

-PAGE 16 OF 33-

#### §27.3305 Clean Elections Fund

(a) There is hereby established a Special Revenue Fund of the City of San Diego to be known as the "San Diego Clean Elections Fund" (Clean

Elections Fund). The Clean Elections Fund shall be used to provide public financing for the election campaigns of participating candidates; and for paying the administrative and enforcement costs of the Ethics Commission related to this division.

(b) The City shall appropriate annually to the Clean Elections Fund at least an amount equal to \$2 per resident of the City of San Diego, as determined by the most recent official United States Census Bureau Population Estimate for the City of San Diego. The City shall begin appropriating funds for the Clean Elections Fund after the City takes all necessary steps to create the fund, and staff is in place to run the program, after the effective date of this ordinance. Within the first year after the measure is adopted by the voters, the City shall take all steps necessary to create the Clean Elections Fund, including adopting any necessary implementing ordinances and appropriating funds for the program.

(c) Administrative and enforcement costs of this Division will be determined by the City Council and may later be amended by an action of the City Council if the amount proves to be insufficient to operate the program.

(O-2021-2)

-PAGE 17 OF 33-

(d) In the event that the Ethics Commission, working with assisting City departments, determines, after the close of the qualifying period of any election, that the amount in the Clean Elections Fund is insufficient to fund all participating candidates, the Ethics Commission shall allocate all the funds equally among the candidates and each candidate may then raise private contributions up to the cap which they would have been entitled to.

(e) Under no circumstances shall the amount in the Clean Elections Fund exceed an amount equal to \$2 per resident of the City of San Diego, as determined by the most recent official United States Census Bureau Population Estimate for the City of San Diego.

#### §27.3306 Statement of Participation or Nonparticipation in the Clean Elections Program:

No later than at the end of the qualifying period, a candidate for City Council shall file with the Ethics Commission a statement of participation or nonparticipation in the Clean Elections

(O-2021-2)

-PAGE 18 OF 33-

Program on a form designated by the Ethics Commission. This statement is a public document. A statement of participation in the Clean Elections Program shall constitute an enforceable agreement between the candidate and the Ethics Commission, signed by the candidate under penalty of perjury, and shall state that the signing candidate agrees:

(1) to comply with the voluntary expenditure ceilings set forth in section 27.3309;

(2) not to solicit or accept any contributions, other than seed money, qualifying contributions, and Professional Expense Committee contributions. Unless specified by the ethics commission.

(3) to adhere to all other rules established by the Ethics Commission for participating candidates; and

(4) that, if elected, the candidate will, during that term of office, neither solicit, nor accept, any contributions other than seed money, qualifying contributions and Professional Expense Committee contributions for the same elected office. However, a candidate seeking to run for a second term must notify the Ethics Commission by January 1st of the year preceding the election that he or she is running as a Clean Elections candidate for that second term.

(O-2021-2)

-PAGE 19 OF 33-

### §27.3307 Qualification for Participating in the Clean Elections Program

A candidate for a covered office shall be certified by the Ethics Commission as a participating candidate in the Clean Elections Program after satisfying all of the following criteria:

(a) The candidate collects at least the following number of qualifying contributions before the close of the qualifying period:

(1) 300 qualifying contributions which must be made by registered voter residents of the council district the candidate seeks to represent;

(b) The candidate delivers to and deposits with the City Treasurer all qualifying contributions pursuant to a schedule established by the Ethics Commission providing for the submission of qualifying contributions, in compliance with City deposit requirements, during the qualifying period. Each qualifying contribution shall be turned over to the City Treasurer for deposit in the Clean Elections Fund accompanied by a receipt, on a form developed and distributed by the Ethics Commission, identifying the contributor by full name and residential address and including a signed statement indicating that the contributor understands the purpose of the contribution, that the contribution is made without coercion or expectation and said contribution was not provided by anyone else and that any misrepresentation of these facts may be punishable as a misdemeanor.

(O-2021-2)

-PAGE 20 OF 33

(c) The candidate signs a statement of participation in the Clean Elections Program with the Ethics Commission pursuant to section 27.3306.

(d) The candidate agrees to furnish to the Ethics Commission any information and proof of compliance as may be requested.

### §27.3308 Obligations of Participating Candidates

(a) A participating candidate shall meet the candidate nomination requirements established by Article 7, Division 2 of the Municipal Code and qualify to have the participating candidate's name appear on the ballot for the covered office for the election in which public funds are received.

(b) A participating candidate and the treasurer of the participating candidate's campaign committee shall attend a Clean Elections Program workshop conducted by the Ethics Commission pursuant to section 27.3304(c)(2).

(c) A participating candidate who accepts any Clean Elections Fund funding during the special or primary election campaign period shall comply with all the requirements of this article through the general election campaign period whether the candidate continues to accept Clean Elections Fund funding or not.

(O-2021-2)

-PAGE 21 OF 33-

(d) During the exploratory period, which shall run from January 1 of the year prior to the election to January 1 of the election year a candidate may raise, accept and spend a limited amount of seed money. This period is established to allow candidates to explore their potential candidacy and eligibility for the Clean Elections Program. Seed money contributions shall not exceed \$100 per contributor, including the candidate; this amount shall not include the candidate's nomination fee, which may be paid from the candidate's own funds, if desired. Any seed money contributions for a participating candidate that are not spent by the end of the exploratory period shall be paid to the Clean Elections Fund.

(e) A participating candidate shall not use personal funds in connection with the candidate's election, except for: (1) one \$5 qualifying contribution, (2) a seed money contribution up to the \$100 limit established by subsection (d) of this section, (3) to pay the nomination fee to seek the elective office, and (4) a Professional Expense Committee contribution up to the limit established by the Commission and Municipal Code.

(f) If sponsors agree to host debates under the terms of this division, and in the number provided:

(O-2021-2)

-PAGE 22 OF 33-

(1) Participating candidates in contested races for the office of City Council member shall participate in two one-hour debates during a contested primary election and two one-hour debates during a contested general election.

(2) Debates shall be held as set forth in section 27.3304, videotaped with access to the public, and publicly televised and aired online if possible, to ensure voters' access to such debates.

(3) The obligation that a participating candidate participate in a debate required by this section shall be waived at the discretion of the Ethics Commission, upon a determination by the Ethics



Commission that the failure to participate in the debate occurred under circumstances beyond the control of the candidate and of such nature that a reasonable person would find the failure justifiable or excusable.

(g) All expenditures by a participating candidate during the primary election campaign period and general election campaign period shall be funded by the Clean Elections Fund distributed pursuant to section 27.3310 and shall not exceed the expenditure ceilings established by section 27.3309.

(O-2021-2)

-PAGE 23 OF 33-

#### §27.3309 Expenditure Ceilings

(a) A participating candidate or candidate's controlled committee shall limit campaign expenditures to the following amount:

\$0.08 per resident of the City of San Diego during the primary election campaign period;

\$0.16 per resident of the City of San Diego during the general election campaign period.

\$0.04 per resident of the City of San Diego for each candidate should two Clean Election candidates in the same council district both qualify for the general election run-off.

(b) The expenditure ceilings established by subsection (a) of this section shall be based on the total population of the City of San Diego as determined by

(O-2021-2)

-PAGE 24 OF 33-

the most recent official United States Census Bureau Population Estimate for the City of San Diego.

#### §27.3310 Disbursements of Public Funds

(1) shall occur on or before January 1 of the election year, with all certified candidates receiving funds simultaneously.

(2) twenty-five percent of the expenditure ceiling for that office and election as provided in section 27.3309, in the case of a participating candidate who is unopposed.

(c) If there are insufficient public funds in the Clean Elections Fund available for all participating candidates, whatever funds are available in the Fund shall be distributed on a pro rata basis to participating candidates as determined by the Ethics Commission, working with the City's Department of Finance. At the time the Ethics Commission, working with

(O-2021-2)

-PAGE 25 OF 33-

the Department of Finance, determines that there are insufficient public funds in the Clean Elections Fund and no additional funds will be appropriated to the Clean Elections Fund pursuant to section 27.3305(d), all participating candidates shall be permitted to use the remaining public funds as set forth in section 27.3311 and other governing laws. Participating candidates shall then be permitted to raise and spend private contributions subject to the private contribution limitations established by Article 7, Division 29, of the Municipal Code, and subject to the expenditure ceilings established by section 27.3309 of this ordinance.

#### §27.3311 Use of Public Funds

(a) Notwithstanding section 27.2917 of the Municipal Code, public funds disbursed to a participating candidate from the Clean Elections Fund shall be used exclusively for the purposes of promoting that candidate's candidacy and shall not be expended for any other candidacy or campaign, transferred to any other person, or converted to personal use. Personal use includes any use of public funds to fulfill a commitment, obligation or expense that would exist irrespective of the candidate's campaign. The Ethics Commission shall adopt rules further defining permissible and impermissible uses of public funds.

(b) Participating candidates who purchase fixed assets, including accessories, purchased with campaign funds that can be used for non-campaign purposes with a value of \$200 or more, shall turn these fixed assets into the Ethics Commission no later than 14 days after the primary election or the general election if the candidate was successful in the primary. For purposes of determining whether a fixed asset is valued at \$200 or more, the value shall include any accessories purchased for use with the fixed asset in question. A candidate may elect to keep an item by reimbursing the Ethics Commission for 80% of the original purchase price including the cost of accessories.

(c) A candidate may not pay clean election funds to:

- the candidate or a sole proprietorship owned by the candidate,
- the candidate's spouse or domestic partner or a sole proprietorship owned by the candidate's spouse or domestic partner,
- a member of the candidate's immediate family or household,
- a business entity in which the candidate or a member of the candidate's immediate family or household holds a significant proprietary or financial interest,
- a nonprofit entity in which the candidate or a member of the candidate's immediate family or household is a director, officer, executive director or chief financial officer.

(d) Unexpended or unencumbered public funds on the day following the defeat, withdrawal or election to office by a participating candidate shall revert back to the Clean Elections Fund, and shall be deposited with the

City Treasurer by said participating candidate within 30 days after certification of the election results by the City Council.

#### §27.3312 Special Elections

Public campaign financing shall be available to candidates in special elections. The Ethics Commission shall propose implementing rules for special elections, which will be approved as amendments to the Municipal Code and this division by the City Council after public hearings. Such modifications may include a reduction in the number of qualifying contributions a candidate must collect, as well as a reduction in the number of days in which such qualifying contributions must be collected. Under no circumstances, however, shall the number of qualifying contributions be reduced by more than fifty (50) percent.

#### §27.3313 Electronic Filing and Disclosure

The Ethics Commission shall adopt rules requiring all participating candidates to file all campaign finance reports and other required forms and documents electronically using the City Clerk's online filing system described in section 27.2931, or as the section may be amended in the future.

#### §27.3314 Cost of Living Adjustments

The Ethics Commission shall, in January of every fourth year following the year of enactment of this San Diego Clean Elections Ordinance, adjust the dollar amounts referenced in this section to reflect changes in the Consumer Price Index

(O-2021-2)

for San Diego as determined by the United States Department of Labor. Those adjustments shall be rounded to the nearest:

- (a) \$0.01 for the per-resident voluntary expenditure ceilings established by section 27.3309;
- (b) \$1 for the per-resident appropriation established by section 27.3305(b), and in compliance with the per-resident Clean Elections Fund amount limit established by section 27.3305(e);
- (c) \$1,000 for the aggregate seed money limit established by section 27.3303 and the electronic filing threshold referenced in section 27.3313.

#### §27.3315 Enforcement

Violations and alleged violations of this division shall be subject to the complaint, investigation, and enforcement procedures established by Article 6, Division 4, Municipal Code sections 26.0401 et seq. for the Ethics Commission, serving as the Enforcement Authority.

#### §27.3316 Penalties

Violations of this division shall be penalized pursuant to the City of San Diego Municipal Elections Campaign Control Ordinance, Municipal Code section 27.2991, by the Enforcement Authority. In addition to the penalties set forth in section 27.2991, a person who violates a provision of this division shall be required to return public funds received pursuant to this division and deposit such funds with the City Treasurer.

(O-2021-2)

-PAGE 28 OF 33-

#### §27.3317 Amendment of the San Diego Clean Elections Ordinance

The City Council may, by majority vote, and without a subsequent vote of the people, amend this division to carry out its purposes and intent if, at least ten days before the Council hearing on the amendment, the proposed amendment in its final form has been delivered to the Ethics Commission and made available to the public in compliance with open meetings laws.

#### §27.3318 Reports by City of San Diego Ethics Commission

Following each election for a covered office, and at any other time upon the request of the Mayor or the City Council and at such other times as the Ethics Commission deems appropriate, the Ethics Commission shall review and evaluate the effect of this ordinance upon the conduct of election campaigns in the City of San Diego and shall submit a report to the Mayor and the City Council that may suggest amendments to the ordinance and include, as information may be available, the following:

- (a) The number and names of candidates qualifying for and choosing to receive Clean Elections Fund funding pursuant to this ordinance, and of candidates failing to qualify or otherwise not choosing to receive such funding, in the last election;
- (b) The amount of Clean Elections Fund funding provided to the controlled committee of each participating candidate pursuant to this ordinance and the contributions received and expenditures made by each such candidate and the controlled committee of such candidate, in the last election;

(O-2021-2)

-PAGE 29 OF 33-

- (c) The number and names of non-participating candidates in the last election, together with the expenditures made by each such candidate and the controlled committees of such candidate in that election;
- (d) Recommendations as to whether the provisions of this ordinance governing maximum contribution amounts, thresholds for qualification for the Clean Elections Program, and expenditure ceilings should be amended and setting forth the amount of, and reasons for, any amendments it recommends;
- (e) Analysis of the effect of this ordinance on election campaigns, including,

to the extent available, information regarding its effect on the sources and amounts of private financing, the level of campaign expenditures, voter participation, the number of candidates and the candidates' ability to campaign effectively for public office;

(f) A review of the procedures utilized in providing Clean Elections Fund funding to candidates; and

(g) Recommendations for other changes to this ordinance as it deems appropriate. Such recommendations may be submitted to the City Council as the subject of an ordinance to amend provisions of this division to ensure the proper operations of this program.

Section 2. Article 7, Division 2, Section 27.0220 of the San Diego Municipal Code is hereby amended to read as follows:

(O-2021-2)

-PAGE 30 OF 33-

#### §27.0220 Nominating Fee

The election nominating fee for the offices of City Councilmember shall be established according to the City Council's User Fee Policy. The fee schedule shall be filed in the Rate book of City Fees and Charges in the Office of the Clerk. The nominating fee is non-refundable and shall be paid when nomination papers are submitted for filing. The nominating fee shall be refunded to a candidate upon such candidate's certification as a participating candidate in the Clean Elections Program pursuant to Municipal Code section 27.3307. The nominating fee is otherwise non-refundable.

Section 3. Article 7, Division 6, Sections 27.0625 and 27.0634, of the San Diego Municipal Code are hereby amended to read as follows:

#### §27.0625 Clerk's Duty to Send Voter Pamphlet

The City Clerk shall send to each voter, together with the sample ballot, a voter pamphlet which contains the written statements of candidates' qualifications and photographs that are prepared pursuant to this division. The voter pamphlet shall also include a description of the San Diego Clean Elections Ordinance. The description shall indicate that each candidate whose name is preceded in the voter pamphlet by the Clean Elections Program logotype developed pursuant to Municipal Code section 27.3304(c)(8) is a participant in the Clean Elections Program. The Clean Elections logotype shall precede the name of each participating candidate in the Clean Elections Program in the voter pamphlet.

(O-2021-2)

-PAGE 31 OF 33-

#### §27.0634 Listing of Candidates on Ballots

Names of candidates as they shall be listed on ballots shall be determined in the following manner:

(a)-(b) [No change in text.]

(c) The Clean Elections logotype, developed pursuant to Municipal Code section 27.3304(c)(8), shall precede the name of each participating candidate in the Clean Elections Program, pursuant to Municipal Code section 27.3307, in the voter pamphlet.

#### SEVERABILITY

If any section, subsection, sentence, clause or provision of this ordinance is held invalid, the remainder of this ordinance, to the extent it can be given effect, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby, and to this extent the provisions are severable.

#### EFFECTIVE DATE