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**CANDIDATE FILING REQUIREMENTS**

2008 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Peter C. Knudson**

House Sponsor: Glenn A. Donnelson

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**LONG TITLE**

**General Description:**

This bill modifies the Election Code by amending declaration of candidacy provisions for candidates claiming impecuniosity.

**Highlighted Provisions:**

This bill:

- ▶ prohibits a person from claiming that the person is unable to pay a candidate filing fee when that person is able to pay;
- ▶ allows a filing clerk to request a financial statement from an individual who files an affidavit of impecuniosity;
- ▶ adds the language "under penalty of law for false statements" to the affidavit of impecuniosity, which is used by candidates claiming they are unable to pay the candidate filing fee;
- ▶ provides that a person may be removed from the ballot if the person is convicted of filing a false statement in relation to an affidavit of impecuniosity or a financial statement;
- ▶ requires a filing clerk to provide a notice of the penalties for making a false statement; and
- ▶ makes technical changes.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

This bill provides an immediate effective date.

30 **Utah Code Sections Affected:**

31 AMENDS:

32 **20A-9-201**, as last amended by Laws of Utah 2007, Chapters 83 and 97



34 *Be it enacted by the Legislature of the state of Utah:*

35 Section 1. Section **20A-9-201** is amended to read:

36 **20A-9-201. Declarations of candidacy -- Candidacy for more than one office or of**  
37 **more than one political party prohibited with exceptions -- General filing and form**  
38 **requirements -- Affidavit of impecuniosity.**

39 (1) Before filing a declaration of candidacy for election to any office, a person shall:

40 (a) be a United States citizen; and

41 (b) meet the legal requirements of that office.

42 (2) (a) Except as provided in Subsection (2)(b), a person may not:

43 (i) file a declaration of candidacy for, or be a candidate for, more than one office in  
44 Utah during any election year; or

45 (ii) appear on the ballot as the candidate of more than one political party.

46 (b) A person may file a declaration of candidacy for, or be a candidate for, President or  
47 Vice President of the United States and another office, if the person resigns the person's  
48 candidacy for the other office after the person is officially nominated for President or Vice  
49 President of the United States.

50 (3) If the final date established for filing a declaration of candidacy is a Saturday or  
51 Sunday, the filing time shall be extended until 5 p.m. on the following business day.

52 (4) (a) (i) Except for presidential candidates, before the filing officer may accept any  
53 declaration of candidacy, the filing officer shall:

54 (A) read to the prospective candidate the constitutional and statutory qualification  
55 requirements for the office that the candidate is seeking; and

56 (B) require the candidate to state whether or not the candidate meets those  
57 requirements.

58           (ii) Before accepting a declaration of candidacy for the office of county attorney, the  
59 county clerk shall ensure that the person filing that declaration of candidacy is:

60           (A) a United States citizen;

61           (B) an attorney licensed to practice law in Utah who is an active member in good  
62 standing of the Utah State Bar;

63           (C) a registered voter in the county in which he is seeking office; and

64           (D) a current resident of the county in which he is seeking office and either has been a  
65 resident of that county for at least one year or was appointed and is currently serving as county  
66 attorney and became a resident of the county within 30 days after appointment to the office.

67           (iii) Before accepting a declaration of candidacy for the office of district attorney, the  
68 county clerk shall ensure that, as of the date of the election, the person filing that declaration of  
69 candidacy is:

70           (A) a United States citizen;

71           (B) an attorney licensed to practice law in Utah who is an active member in good  
72 standing of the Utah State Bar;

73           (C) a registered voter in the prosecution district in which he is seeking office; and

74           (D) a current resident of the prosecution district in which he is seeking office and either  
75 will have been a resident of that prosecution district for at least one year as of the date of the  
76 election or was appointed and is currently serving as district attorney and became a resident of  
77 the prosecution district within 30 days after receiving appointment to the office.

78           (iv) Before accepting a declaration of candidacy for the office of county sheriff, the  
79 county clerk shall ensure that the person filing the declaration of candidacy:

80           (A) as of the date of filing:

81           (I) is a United States citizen;

82           (II) is a registered voter in the county in which the person seeks office;

83           (III) (Aa) has successfully met the standards and training requirements established for  
84 law enforcement officers under Title 53, Chapter 6, Part 2, Peace Officer Training and  
85 Certification Act; or

86 (Bb) has passed a certification examination as provided in Section 53-6-206; and  
87 (IV) is qualified to be certified as a law enforcement officer, as defined in Section  
88 53-13-103; and

89 (B) as of the date of the election, shall have been a resident of the county in which the  
90 person seeks office for at least one year.

91 (b) If the prospective candidate states that he does not meet the qualification  
92 requirements for the office, the filing officer may not accept the prospective candidate's  
93 declaration of candidacy.

94 (c) If the candidate states that he meets the requirements of candidacy, the filing officer  
95 shall:

96 (i) inform the candidate that the candidate's name will appear on the ballot as it is  
97 written on the declaration of candidacy;

98 (ii) provide the candidate with a copy of Section 20A-7-801 regarding the Statewide  
99 Electronic Voter Information Website Program and inform the candidate of the submission  
100 deadline under Subsection 20A-7-801(4)(a);

101 (iii) provide the candidate with a copy of the pledge of fair campaign practices  
102 described under Section 20A-9-206 and inform the candidate that:

103 (A) signing the pledge is voluntary; and

104 (B) signed pledges shall be filed with the filing officer;

105 (iv) accept the candidate's declaration of candidacy; and

106 (v) if the candidate has filed for a partisan office, provide a certified copy of the  
107 declaration of candidacy to the chair of the county or state political party of which the candidate  
108 is a member.

109 (d) If the candidate elects to sign the pledge of fair campaign practices, the filing officer  
110 shall:

111 (i) accept the candidate's pledge; and

112 (ii) if the candidate has filed for a partisan office, provide a certified copy of the  
113 candidate's pledge to the chair of the county or state political party of which the candidate is a

114 member.

115 (5) Except for presidential candidates, the form of the declaration of candidacy shall be  
116 substantially as follows:

117 "State of Utah, County of \_\_\_\_

118 I, \_\_\_\_\_, declare my intention of becoming a candidate for the office of \_\_\_\_  
119 as a candidate for the \_\_\_\_ party. I do solemnly swear that: I can qualify to hold that office,  
120 both legally and constitutionally, if selected; I reside at \_\_\_\_\_ in the City or Town of  
121 \_\_\_\_\_, Utah, Zip Code \_\_\_\_ Phone No. \_\_\_\_; I will not knowingly violate any law governing  
122 campaigns and elections; and I will qualify for the office if elected to it. The mailing address  
123 that I designate for receiving official election notices is \_\_\_\_\_.

124 \_\_\_\_\_

125 Subscribed and sworn before me this \_\_\_\_\_(month\day\year).

126 Notary Public (or other officer qualified to administer oath.)"

127 (6) (a) Except for presidential candidates, the fee for filing a declaration of candidacy is:

128 (i) \$25 for candidates for the local school district board; and

129 (ii) 1/8 of 1% of the total salary for the full term of office legally paid to the person  
130 holding the office, but not less than \$5, for all other federal, state, and county offices.

131 (b) Except for presidential candidates, the filing officer shall refund the filing fee to any  
132 candidate:

133 (i) who is disqualified; or

134 (ii) who the filing officer determines has filed improperly.

135 (c) (i) The county clerk shall immediately pay to the county treasurer all fees received  
136 from candidates.

137 (ii) The lieutenant governor shall:

138 (A) apportion to and pay to the county treasurers of the various counties all fees  
139 received for filing of nomination certificates or acceptances; and

140 (B) ensure that each county receives that proportion of the total amount paid to the  
141 lieutenant governor from the congressional district that the total vote of that county for all

142 candidates for representative in Congress bears to the total vote of all counties within the  
143 congressional district for all candidates for representative in Congress.

144 (d) (i) ~~Each~~ A person who is unable to pay the filing fee may file a declaration of  
145 candidacy without payment of the filing fee upon a prima facie showing of impecuniosity as  
146 evidenced by an affidavit of impecuniosity filed with the filing officer and, if requested by the  
147 filing officer, a financial statement filed at the time the affidavit is submitted.

148 (ii) A person who is able to pay the filing fee may not claim impecuniosity.

149 (iii) (A) False statements made on an affidavit of impecuniosity or a financial statement  
150 filed under this section shall be subject to the criminal penalties provided under Sections  
151 76-8-503 and 76-8-504 and any other applicable criminal provision.

152 (B) Conviction of a criminal offense under Subsection (6)(d)(iii)(A) shall be considered  
153 an offense under this title for the purposes of assessing the penalties provided in Subsection  
154 20A-1-609(2).

155 ~~(iii)~~ (iv) The filing officer shall ensure that the affidavit of impecuniosity is printed in  
156 substantially the following form:

157 "Affidavit of Impecuniosity

158 Individual Name

159 \_\_\_\_\_ Address \_\_\_\_\_

160 Phone Number \_\_\_\_\_

161 I, \_\_\_\_\_ (name), do solemnly [swear] [affirm], under penalty of law  
162 for false statements, that, owing to my poverty, I am unable to pay the filing fee required by  
163 law.

164 Date \_\_\_\_\_ Signature \_\_\_\_\_

165 Affiant

166 Subscribed and sworn to before me on \_\_\_\_\_ (month\day\year)

167 \_\_\_\_\_  
168 (signature)

169 Name and Title of Officer Authorized to Administer Oath \_\_\_\_\_"

170           (v) The filing officer shall provide to a person who requests an affidavit of  
171 impecuniosity a statement printed in substantially the following form, which may be included on  
172 the affidavit of impecuniosity:

173           "Filing a false statement is a criminal offense. In accordance with Section 20A-1-609, a  
174 candidate who is found guilty of filing a false statement, in addition to being subject to criminal  
175 penalties, will be removed from the ballot."

176           (vi) The filing officer may request that a person who makes a claim of impecuniosity  
177 under this Subsection (6)(d) file a financial statement on a form prepared by the election official.

178           (7) Any person who fails to file a declaration of candidacy or certificate of nomination  
179 within the time provided in this chapter is ineligible for nomination to office.

180           (8) A declaration of candidacy filed under this section may not be amended or modified  
181 after the final date established for filing a declaration of candidacy.

182           Section 2. **Effective date.**

183           If approved by two-thirds of all the members elected to each house, this bill takes effect  
184 upon approval by the governor, or the day following the constitutional time limit of Utah  
185 Constitution Article VII, Section 8, without the governor's signature, or in the case of a veto,  
186 the date of veto override.