



STATE OF MICHIGAN  
TERRI LYNN LAND, SECRETARY OF STATE  
DEPARTMENT OF STATE  
LANSING

## **LEGAL DEFENSE FUND ACT FAQs**

### **What activity does the Legal Defense Fund Act (LDFA) regulate?**

The Legal Defense Fund Act (LDFA) was passed in 2008 to regulate and require reports for contributions and expenditures made to assist elected officials in defending themselves against a criminal, civil or administrative action arising directly out of the conduct of the elected official's governmental duties.

A Legal Defense Fund (LDF) is defined as all contributions received, held, or expended for the legal defense of an elected official. An exception exists for certain 501(c) (4) organizations.

### **Who is covered by the LDFA?**

The LDFA covers public officials who are elected or appointed to state and local level elected offices. Public officials covered under the LDFA are referred to as "Elected Officials." The LDFA does not regulate precinct delegates, certain school board members and those elected or appointed to federal offices.

The elected official may designate a treasurer for the LDF. In the absence of a designated treasurer, the elected official is the treasurer of the LDF. Treasurers are legally responsible for the LDF activities and filing responsibilities along with the elected official.

### **Does a LDF need to be filed even if the elected official only uses his/her own money?**

Yes, a LDF must be filed even if the elected official uses only his or her own money. The elected official's own money or property is considered a contribution and is, therefore, covered under the LDFA. Use of the official's homestead is not considered a contribution.

### **How do I register a LDF?**

The elected official must file a Statement of Organization with the Michigan Department of State for the Legal Defense Fund (LDF) within 10 calendar days after receiving the first contribution or making the first expenditure. The LDF shall only make legal expenditures in defending the elected official against a criminal, civil or administrative action arising directly out of the conduct of the elected official's governmental duties. The Secretary of State is the only filing

official for Legal Defense Funds. The requirement to file is triggered immediately after any contribution is received or expenditure is made regardless of amount. There is no fee for registering the LDF itself; however there are late filing fees if the Statement of Organization is filed late.

The Statement of Organization can be found at the Department of State's website at [www.michigan.gov](http://www.michigan.gov).

- Select Elections in Michigan
- Select Legal Defense Funds
- Select LDF Statement of Organization

### **What if the information on the Statement of Organization changes or needs to be corrected?**

The information on the Statement of Organization must be kept up to date. If information changes or needs to be corrected, an amendment to the Statement of Organization must be filed when the next transaction report is required to be filed.

### **What reports are owed?**

The LDF must file Quarterly Transaction Reports that are due regardless of the level of activity of the LDF during the reporting period. This means that a report is owed even if the LDF does not raise or spend any funds during a reporting period. Reports that are not filed on time will result in late filing fees. There is no provision in the LDFA for a waiver of the reports.

The Quarterly Transaction Reports show the contributions received and the expenditures made during the coverage period of the report. This is done by filing report schedules to disclose the activity.

As long as the Legal Defense Fund is registered, reports must be filed according to the following schedule:

<b>REPORT DUE</b>	<b>REPORT CLOSE</b>
January 25	December 31
April 25	March 31
July 25	June 30
October 25	September 30

A LDF that no longer receives contributions or makes expenditures must file a final dissolution report showing how any leftover funds of the LDF were expended. See: *When can the Legal Defense Fund be dissolved?*

### **Are there penalties for late filing?**

Yes. An elected official who fails to file a Statement of Organization will be assessed a late filing fee of \$10.00 for each business day the statement remains un-filed to a maximum of \$300.00.

An elected official who fails to file a Quarterly Transaction Report will be assessed a late filing fee. If the legal defense fund has received contributions totaling \$10,000.00 or less during the previous 2 years, the late filing fee is \$25.00 for each business day up to \$500.00. If the legal defense fund has received contributions totaling more than \$10,000.00 during the previous 2 years, the late filing fee cannot exceed \$1,000.00.

## **Where are the LDF filings made? (Statement of Organization and Quarterly Transaction Reports)**

Filings for the LDF are made with the Michigan Department of State's Bureau of Elections. The address below should be used to reach us by first class mail, registered mail or certified mail.

Michigan Department of State  
Bureau of Elections  
Post Office Box 20126  
Lansing, Michigan 48901-0726

Phone: (517) 373-2540

To visit our office or use an overnight delivery service, the address below is provided.

Michigan Department of State  
Bureau of Elections  
Richard H. Austin Building, 1<sup>st</sup> Floor  
430 West Allegan Street  
Lansing, Michigan 48918-1700

## **What types of contributions are allowed?**

A LDF can accept contributions of money and goods/services from a business, individual, proprietorship, firm, partnership, joint venture, syndicate, business trust, labor organization, company, corporation, association, committee, or any other organization or group of persons acting jointly. A contribution includes the official's own money or property with the exception of his/her homestead. A discount given that is not offered to the general public is considered a contribution.

## **Are there any prohibited contributions?**

Yes, there are a number of prohibited contributions:

- Anonymous Contributions: all contributions must be identified
- Earmarked Contributions: all contributions must identify the original contributor

## **Can I return a contribution to avoid a violation?**

Yes, a contribution that is expressly and unconditionally rejected returned or refunded within 30 business days after receipt is no longer considered a contribution.

## **What types of expenditures are allowed?**

All expenditures out of the fund must be used for the administration of the fund, attorney fees or related legal costs associated with the legal defense of the elected official for whom the fund was established. The funds cannot be used for media purposes, media consulting or mass mailings.

## **When can the Legal Defense Fund be dissolved?**

A LDF can be dissolved when it will no longer receive contributions or make expenditures. The LDF is dissolved by requesting dissolution on the final Quarterly Transaction Report filed by the LDF. The Report must show how the funds in the LDF were fully expended. Leftover funds can be returned to contributors of the fund, forwarded to the state treasurer for deposit into the general fund of the state or forwarded to the State Bar of Michigan for deposit into the state bar client protection fund.

A LDF that is not dissolved must continue to file Quarterly Transaction Reports until it has met all of the requirements of the LDFA and is granted dissolution by Department of State.

A treasurer is responsible for keeping the LDF records for 5 years and must make them available to the Secretary of State if requested.

## **How and when will the information be available to the public?**

The Department of State will provide a web site with information and copies of the documents that are filed by the LDF and letters and notices issued by the Department to the LDF. Filings receive from the LDF will be available on the web site within 3 business days.

## **How can I get more information on the Legal Defense Fund Act?**

If you have further questions concerning the Legal Defense Fund Act, please feel free to contact the Michigan Department of State.

Michigan Department of State  
Bureau of Elections  
Post Office Box 20126  
Lansing, Michigan 48901-0726  
Email: [Disclosure@Michigan.gov](mailto:Disclosure@Michigan.gov)  
Phone: (517) 373-2540

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