

§6B-2-6. Financial disclosure statement; filing requirements.

(a) The financial disclosure statement shall be filed on February 1 of each calendar year to cover the period of the preceding calendar year, except insofar as may be otherwise provided herein. The following persons must file the financial disclosure statement required by this section with the Ethics Commission:

(1) All elected officials in this state, including, but not limited to, all persons elected statewide, all county elected officials, municipal elected officials in municipalities which have, by ordinance, opted to be covered by the disclosure provisions of this section, all members of the several county or district boards of education and all county or district school board superintendents;

(2) All members of state boards, commissions and agencies appointed by the Governor; and

(3) Secretaries of departments, commissioners, deputy commissioners, assistant commissioners, directors, deputy directors, assistant directors, department heads, deputy department heads and assistant department heads.

A person who is required to file a financial disclosure statement under this section by virtue of becoming an elected or appointed public official whose office is described in subdivision (1), (2) or (3) of this subsection, and who assumes the office less than ten days before a filing date established herein or who assumes the office after the filing date, shall file a financial disclosure statement for the previous twelve months no later than thirty days after the date on which the person assumes the duties of the office, unless the person has filed a financial disclosure statement with the commission during the twelve-month period before he or she assumed office.

(b) A candidate for public office shall file a financial disclosure statement for the previous calendar year with the state Ethics Commission no later than ten days after he or she files a certificate of announcement, unless he or she has previously filed a financial disclosure statement with the state Ethics Commission for the previous calendar year.

The Ethics Commission shall file a duplicate copy of the financial disclosure statement required in this section in the following offices within ten days of the receipt of the candidate's statement of disclosure:

(1) Municipal candidates in municipalities which have opted, by ordinance, to be covered by the disclosure provisions of this section, in the office of the clerk of the municipality in which the candidate is seeking office;

(2) Legislative candidates in single county districts and candidates for a county office or county school board in the office of the clerk of the county commission of the county in which the candidate is seeking office;

(3) Legislative candidates from multi-county districts and congressional candidates in the office of the clerk of the county commission of the county of the candidate's residence.

After a ninety-day period following any election, the clerks who receive the financial disclosure statements of candidates may destroy or dispose of those statements filed by candidates who were unsuccessful in the election.

(c) No candidate for public office may maintain his or her place on a ballot and no public official may take the oath of office or enter or continue upon his or her duties or

receive compensation from public funds unless he or she has filed a financial disclosure statement with the state Ethics Commission as required by the provisions of this section.

(d) The Ethics Commission may, upon request of any person required to file a financial disclosure statement, and for good cause shown, extend the deadline for filing such statement for a reasonable period of time: *Provided*, That no extension of time shall be granted to a candidate who has not filed a financial disclosure statement for the preceding filing period.

(e) No person shall fail to file a statement required by this section.

(f) No person shall knowingly file a materially false statement that is required to be filed under this section.

(g) The Ethics Commission shall publish either on the Internet or by printed document made available to the public, a list of all persons who have violated any Ethics Commission's financial disclosure statement filing deadline.

(h) The Ethics Commission shall, in addition to making all financial disclosure statements available for inspection upon request:

(1) Publish on the internet all financial disclosure statements filed by members of the Legislature and candidates for legislative office, elected members of the executive department and candidates for the offices that constitute the executive department, and members of the Supreme Court of Appeals and candidates for the Supreme Court of Appeals, commencing with those reports filed on or after January 1, 2012; and

(2) Publish on the Internet all financial disclosure statements filed by any other person required to file such financial disclosure statements, as the commission determines resources are available to permit the Ethics Commission to make such publication on the Internet. The commission shall redact financial disclosure statements published on the Internet to exclude from publication personal information such as signatures, home addresses and mobile and home telephone numbers.

§6B-2-7. Financial disclosure statement; contents.

(a) The financial disclosure statement required under this article shall contain the following information:

(1) The name, residential and business addresses of the person filing the statement and of his or her spouse and all names under which the person or the person's spouse, or both, do business. For purposes of this section, the word "spouse" means any individual who is legally married to and cohabits with the person filing the statement.

(2) For each position of employment held by the person filing the statements and the person's spouse:

(A) The name of the employer;

(B) The address of the employer;

(C) The job title; and

(D) A general description of job duties.

(3) The name and address of each business in which the person filing the statement or that person's spouse has or had in the last year an interest of at least \$10,000 at fair market value.

(A) For the purposes of this subsection, business interests include, but are not limited to, an interest in:

- (i) Non-publicly owned businesses;
- (ii) Publicly or privately traded stocks, bonds or securities, including those held in self-directed retirement accounts; and
- (iii) Commercial real estate.

(B) For the purposes of this subsection, business interests do not include mutual funds, specific holdings in mutual funds or retirement accounts.

(4) The name, address, and brief description of a nonprofit organization in which the individual or spouse is a director or officer.

(5) The identification, by category, of every source of income over \$1,000, including distributions from retirement accounts received during the preceding calendar year, in his or her own name or by any other person for his or her use or benefit, by the person filing the statement, or that person's spouse, and a brief description of the nature of the income producing activities for which the income was received. This subdivision does not require a person filing the statement who derives income from a business, profession or occupation, or who's spouse derives income from a business, profession or occupation, to disclose the individual sources and items of income that constitute the gross income of that business, profession or occupation.

(6) If the person filing the statement, or that person's spouse, profited or benefitted in the year before the date of filing from a contract for the sale of goods or services to a state, county, municipal or other local governmental agency either directly or through a partnership, corporation or association in which the person, or that person's spouse, owned or controlled more than ten percent, the person shall describe the nature of the goods or services and identify the governmental agencies which purchased the goods or services.

(7) Each interest group or category listed below doing business in this state with which the person filing the statement, did business or furnished services and from which the person filing the statement, or that person's spouse, received more than twenty percent of his or her gross income during the preceding calendar year. The groups or categories are electric utilities, gas utilities, telephone utilities, water utilities, cable television companies, interstate transportation companies, intrastate transportation companies, oil or gas retail, wholesale, exploration, production or drilling companies, banks, savings and loan associations, loan or finance companies, manufacturing companies, surface mining companies, deep mining companies, mining equipment companies, chemical companies, insurance companies, retail companies, beer, wine or liquor companies or distributors, recreation related companies, timbering companies, hospitals or other health care providers, trade associations, professional associations, associations of public employees or public officials, counties, cities or towns, labor organizations, waste disposal companies, wholesale companies, groups or associations promoting gaming or lotteries, advertising companies, media companies, race tracks, promotional companies, lobbying, economic development entities, state government, construction, information technology and legal service providers.

(8) The names of all persons, excluding that person's immediate family, parents or grandparents residing or transacting business in the state to whom the person filing the statement, owes, on the date of execution of this statement in the aggregate in his or her own name or in the name of any other person more than \$5,000: Provided, That nothing herein requires the disclosure of a mortgage on the person's primary and

secondary residences or of automobile loans on automobiles maintained for the use of the person's immediate family, or of a student loan, nor does this section require the disclosure of debts which result from the ordinary conduct of the person's business, profession or occupation or of debts of the person filing the statement to any financial institution, credit card company or business, in which the person has an ownership interest: Provided, however, That the previous proviso does not exclude from disclosure loans obtained pursuant to the linked deposit program provided in article one-a, chapter twelve of this code or any other loan or debt incurred which requires approval of the state or any of its political subdivisions.

(9) The names of all persons except immediate family members, parents and grandparents residing or transacting business in the state (other than a demand or savings account in a bank, savings and loan association, credit union or building and loan association or other similar depository) who owes on the date of execution of this statement more than, in the aggregate, \$5,000 to the person filing the statement, either in his or her own name or to any other person for his or her use or benefit. This subdivision does not require the disclosure of debts owed to the person filing the statement which debts result from the ordinary conduct of the person's business, profession or occupation or of loans made by the person filing the statement to any business in which the person has an ownership interest.

(10) The source of each gift, including those described in subdivision (2), subsection (c), section five of this article, having a value of over \$100, received from a person having a direct and immediate interest in a governmental activity over which the person filing the statement has control, shall be reported by the person filing the statement when the gift is given to that person in his or her name or for his or her use or benefit during the preceding calendar year: Provided, That any person filing a statement required to be filed pursuant to this section is not required to report those gifts described in subdivision (2), subsection (c), section five of this article that are otherwise required to be reported by a registered lobbyist under section four, article three of this chapter: Provided, however, That gifts received by will or by virtue of the laws of descent and distribution, or received from one's spouse, child, grandchild, parents or grandparents, or received by way of distribution from an inter vivos or testamentary trust established by the spouse or child, grandchild or by an ancestor of the person filing the statement are not required to be reported. As used in this subdivision, any series or plurality of gifts which exceeds in the aggregate the sum of \$100 from the same source or donor, either directly or indirectly, and in the same calendar year are regarded as a single gift in excess of that aggregate amount.

(11) The name of each for-profit business of which the person filing the statement, or that person's spouse, serves as a member of the board of directors or an officer, as well as a general description of the type of business.

(12) The name and business address of any child or step-child who is eighteen years or older and employed by state, county or municipal government.

(13) The signature of the person filing the statement.

(b) Notwithstanding the provisions of subsection (a) of this section, any person serving on a board, commission or agency for which no compensation, other than expense reimbursement, is statutorily authorized, is not required to disclose the financial

information relating to his or her spouse as required by subdivisions three or five of subsection (a) of this section if:

(1) His or her spouse, or a business with which he or she is associated, are not regulated by, do not have a contract with, or do not receive any grants or appropriations from, the board, the commission or agency on which the person filing the statement serves. A business with which a filer's spouse is associated means a business in which the person or an immediate family member is a director, officer, owner, employee, compensated agent, or holder of stock which constitutes five percent or more of the total outstanding stocks of any class; and

(2) The filer executes a signed statement on a form provided by the commission verifying these facts.

§6B-2-8. Exceptions to financial disclosure requirements and conflicts of interest provisions.

(a) Any person regulated by the provisions of this article need not report the holdings of or the source of income from any of the holdings of:

(1) Any qualified blind trust; or

(2) A trust --

(A) Which was not created directly by such individual, his spouse, or any dependent child, and

(B) The holdings or sources of income of which such individual, or a member of his or her immediate family, have no knowledge.

Failure to report the holdings of or the source of income of any trust referred to herein in good faith reliance upon this section shall not constitute a violation of sections six or seven of this article.

(b) The provisions of subsection (d), section five of this article shall not apply to holdings which are assets within the trusts referred to in subsection (a) of this section.

(c) For purposes of this section, the term "qualified blind trust" includes a trust in which a regulated person or immediate family has a beneficial interest in the principal or income, and which meets the following requirements:

(1) The trustee of the trust is a financial institution, an attorney, a certified public accountant, a broker, or an investment adviser, who (in the case of a financial institution or investment company, any officer or employee involved in the management or control of the trust) --

(A) Is independent of and unassociated with any interested party so that the trustee cannot be controlled or influenced in the administration of the trust by any interested party;

(B) Is not or has not been an employee of any interested party, or any organization affiliated with any interested party and is not a partner of, or involved in any joint venture or other investment with, any interested party; and

(C) Is not a relative of any interested party.

(2) Any asset transferred to the trust by an interested party is free of any restriction with respect to its transfer or sale unless such restriction is expressly approved by the ethics commission;

(3) The trust instrument which establishes the trust provides that --

(A) Except to the extent provided in paragraph (F) of this subdivision the trustee in the exercise of his authority and discretion to manage and control the assets of the trust shall not consult or notify any interested party;

(B) The trust shall not contain any asset the holding of which by an interested party is prohibited by any law or regulation;

(C) The trustee shall promptly notify the regulated person and the ethics commission when the holdings of any particular asset transferred to the trust by any interested party are disposed of;

(D) The trust tax return shall be prepared by the trustee or his designee, and such return and any information relating thereto (other than the trust income summarized in appropriate categories necessary to complete an interested party's tax return), shall not be disclosed to any interested party;

(E) An interested party shall not receive any report on the holdings and sources of income of the trust, except a report at the end of each calendar quarter with respect to the total cash value of the interest of the interested party in the trust or the net income or loss of the trust or any reports necessary to enable the interested party to complete an individual tax return required by law, but such report shall not identify any asset or holding;

(F) Except for communications which solely consist of requests for distribution of cash or other unspecified assets of the trust, there shall be no direct or indirect communication between the trustee and an interested party with respect to the trust unless such communication is in writing and unless it relates only (i) to the general financial interest and needs of the interested party (including, but not limited to, an interest in maximizing income or long-term capital gain), (ii) to the notification of the trustee of a law or regulation subsequently applicable to the reporting individual which prohibits the interested party from holding an asset, which notification directs that the asset not be held by the trust, or (iii) to directions to the trustee to sell all of an asset initially placed in the trust by an interested party which in the determination of the reporting individual creates a conflict of interest or the appearance thereof due to the subsequent assumption of duties by the reporting individual (but nothing herein shall require any such direction); and

(G) The interested parties shall make no effort to obtain information with respect to the holdings of the trust, including obtaining a copy of any trust tax return filed or any information relating thereto except as otherwise provided in this section.

(4) The proposed trust instrument and the proposed trustee is approved by the ethics commission and approval shall be given if the conditions of this section are met.