

## 5 §19. FINANCIAL DISCLOSURE BY EXECUTIVE EMPLOYEES

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**1. Definitions.** As used in this section, unless the context indicates otherwise, the following terms have the following meanings.

A. "Appointed executive employee" means a compensated member of the classified or unclassified service employed by the Executive Branch, who is appointed by the Governor and confirmed by the Legislature, or who serves in a major policy-influencing position, except assistant attorneys general, as set forth in chapter 71. [1987, c. 784, §4 (AMD).]

B. "Constitutional officers" means the Governor, Attorney General, Secretary of State and Treasurer of State. [1979, c. 734, §2 (NEW).]

C. "Elected executive employee" means the constitutional officers and the State Auditor. [1979, c. 734, §2 (NEW).]

D. "Executive employee" means an appointed executive employee or an elected executive employee. [1979, c. 734, §2 (NEW).]

E. "Gift" means anything of value, including forgiveness of an obligation or debt, given to a person without that person providing equal or greater consideration to the giver. "Gift" does not include:

- (1) Gifts received from a single source during the reporting period with an aggregate value of \$300 or less;
- (2) A bequest or other form of inheritance; and
- (3) A gift received from a relative. [1989, c. 561, §13 (RPR).]

F. "Honorarium" means a payment of money or anything with a monetary resale value to a person for an appearance or a speech by the person. "Honorarium" does not include reimbursement for actual and necessary travel expenses for an appearance or speech. "Honorarium" does not include a payment for an appearance or a speech that is unrelated to the person's official capacity or duties. [1989, c. 561, §14 (NEW).]

G. "Immediate family" means a person's spouse or dependent children. [1989, c. 561, §14 (NEW).]

H. "Income" means economic gain to a person from any source, including, but not limited to, compensation for services, including fees, commissions and payments in-kind; income derived from business; gains derived from dealings in property, rents and royalties; income from investments including interest, capital gains and dividends; annuities; income from life insurance and endowment contracts; pensions; income from discharge of indebtedness; distributive share of partnership income; income from an interest in an estate or trust; prizes; and grants, but does not include gifts. Income received in-kind includes, but is not limited to, the transfer of property and options to buy or lease and stock certificates. Income does not include alimony and separate maintenance payments. [1989, c. 561, §14 (NEW).]

I. "Relative" means an individual who is related to the executive employee or the executive employee's spouse as father, mother, son, daughter, brother, sister, uncle, aunt, great aunt, great uncle, first cousin, nephew, niece, husband, wife, grandfather, grandmother, grandson, granddaughter, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother or half sister, and shall be deemed to include the fiance or fiancée of the executive employee. [1989, c. 561, §14 (NEW).]

I-1. "Reportable liabilities" means any unsecured loan, except a loan made as a campaign contribution recorded as required by law, of \$3,000 or more received from a person not a relative. Reportable liabilities do not include:

- (1) A credit card liability;

(2) An educational loan made or guaranteed by a governmental entity, educational institution or nonprofit organization; or

(3) A loan made from a state or federally regulated financial institution for business purposes. [1991, c. 331, §2 (NEW).]

J. "Self-employed" means that the person qualifies as an independent contractor under Title 39-A, section 102, subsection 13. [1991, c. 885, Pt. E, §6 (AMD); 1991, c. 885, Pt. E, §47 (AFF).]

[ 1991, c. 885, Pt. E, §6 (AMD); 1991, c. 885, Pt. E, §47 (AFF) .]

**2. Statement of sources of income.** Each executive employee shall annually file with the Commission on Governmental Ethics and Election Practices a sworn and notarized statement of finances for the preceding calendar year. The statement must indicate:

A. If the executive employee is an employee of another person, firm, corporation, association or organization, the name and address of the employer and each other source of income of \$1,000 or more; [1989, c. 608, §3 (AMD).]

B. If the executive employee is self-employed, the name and address of the executive employee's business and the name of each source of income derived from self-employment that represents more than 10% of the employee's gross income or \$1,000, whichever is greater, except that, if this form of disclosure is prohibited by statute, rule or an established code of professional ethics, the employee shall specify the principal type of economic activity from which the income is derived. With respect to all other sources of income, a self-employed executive employee shall name each source of income of \$1,000 or more. The employee shall also indicate major areas of economic activity and, if associated with a partnership, firm, professional association or similar business entity, the major areas of economic activity of that entity; [2007, c. 704, §5 (AMD).]

C. The specific source of each gift received; [1989, c. 561, §15 (NEW).]

D. The type of economic activity representing each source of income of \$1,000 or more that any member of the immediate family of the executive employee received and the name of the spouse or domestic partner of the executive employee. The disclosure must include the job title of the executive employee and immediate family members if the source of income is derived from employment or compensation; [2007, c. 704, §5 (AMD).]

E. The name of each source of honoraria that the executive employee accepted; [1989, c. 561, §15 (NEW).]

F. Each executive branch agency before which the executive employee or any immediate family member has represented or assisted others for compensation; and [1989, c. 561, §15 (NEW).]

G. Each executive branch agency to which the executive employee or the employee's immediate family has sold goods or services with a value in excess of \$1,000. [1989, c. 608, §3 (AMD).]

In identifying the source of income, it is sufficient to identify the name and address and principal type of economic activity of the corporation, professional association, partnership, financial institution, nonprofit organization or other entity or person directly providing the income to the individual.

With respect to income from a law practice, it is sufficient for attorneys-at-law to indicate their major areas of practice and, if associated with a law firm, the major areas of practice of the firm.

[ 2007, c. 704, §5 (AMD) .]

**2-A. Statement of interests.** Beginning in 2010, each executive employee shall annually file with the Commission on Governmental Ethics and Election Practices a sworn and notarized statement of those positions set forth in this subsection for the preceding calendar year. The statement must include:

A. Any offices, trusteeships, directorships or positions of any nature, whether compensated or uncompensated, held by the executive employee with any for-profit or nonprofit firm, corporation, association, partnership or business; and [2007, c. 704, §6 (NEW).]

B. Any offices, trusteeships, directorships or positions of any nature, whether compensated or uncompensated, held by a member of the immediate family of the executive employee with any for-profit or nonprofit firm, corporation, association, partnership or business and the name of that member of the executive employee's immediate family. [2007, c. 704, §6 (NEW).]

[ 2007, c. 704, §6 (NEW) .]

### **3. Time for filing.**

A. An elected executive employee shall file an initial report within 30 days of his election. An appointed executive employee shall file an initial report prior to confirmation by the Legislature. [1979, c. 734, §2 (NEW).]

B. Each executive employee shall file the annual report prior to the close of the 2nd week in April, unless that employee has filed an initial or updating report during the preceding 30 days; except that, if an elected or appointed executive employee has already filed a report for the preceding calendar year pursuant to paragraph A, a report does not need to be filed. [2001, c. 75, §3 (AMD).]

C. Each executive employee whose income substantially changes shall file a report of that change within 30 days of it. [1979, c. 734, §2 (NEW).]

[ 2001, c. 75, §3 (AMD) .]

**4. Penalties.** Failing to file the statement within 15 days of having been notified by the Commission on Governmental Ethics and Election Practices of failing to meet the requirements of subsection 2 is a civil violation for which a fine of not more than \$100 may be adjudged.

[ 2007, c. 704, §7 (AMD) .]

**5. Rules.** The Commission on Governmental Ethics and Election Practices may adopt or amend rules to specify the reportable categories or types and the procedures and forms for reporting and to administer this section.

[ 2007, c. 704, §8 (AMD) .]

**6. Public record.** Statements filed under this section are public records. The Commission on Governmental Ethics and Election Practices shall publish on a publicly accessible website the completed forms of executive employees filed under this section.

[ 2007, c. 704, §9 (AMD) .]

**7. Disclosure of reportable liabilities.** Each executive employee shall include on the statement of income under subsection 2 all reportable liabilities incurred while employed as an executive employee. The executive employee shall file a supplementary statement with the Secretary of State of any reportable liability within 30 days after it is incurred. The report must identify the creditor in the manner of subsection 2.

[ 1991, c. 331, §3 (AMD) .]

#### SECTION HISTORY

1979, c. 734, §2 (NEW). 1987, c. 784, §4 (AMD). 1989, c. 561, §§13-16 (AMD). 1989, c. 608, §3 (AMD). 1991, c. 331, §§2,3 (AMD). 1991, c. 885, §E6 (AMD). 1991, c. 885, §E47 (AFF). 2001, c. 75, §3 (AMD). 2007, c. 704, §§5-9 (AMD).

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