

STATUTORY PROVISIONS OF THE WEST VIRGINIA CODE

§6B-1-3. Definitions.

As used in this chapter, unless the context in which used clearly requires otherwise:

- (a) "Review Board" means the Probable Cause Review Board created by section two-a, article two of this chapter.
- (b) "Business" means any entity through which business for-profit is conducted including a corporation, partnership, proprietorship, franchise, association, organization or self-employed individual.
- (c) "Compensation" means money, thing of value or financial benefit. The term "compensation" does not include reimbursement for actual reasonable and necessary expenses incurred in the performance of one's official duties.
- (d) "Employee" means any person in the service of another under any contract of hire, whether express or implied, oral or written, where the employer or an agent of the employer or a public official has the right or power to control and direct such person in the material details of how work is to be performed and who is not responsible for the making of policy nor for recommending official action.
- (e) "Ethics Commission" or "commission" means the West Virginia Ethics Commission.
- (f) "Immediate family", with respect to an individual, means a spouse with whom the individual is living as husband and wife and any dependent child or children, dependent grandchild or grandchildren and dependent parent or parents.
- (g) "Ministerial functions" means actions or functions performed by an individual under a given state of facts in a prescribed manner in accordance with a mandate of legal authority, without regard to, or without the exercise of, the individual's own judgment as to the propriety of the action being taken.
- (h) "Person" means an individual, corporation, business entity, labor union, association, firm, partnership, limited partnership, committee, club or other organization or group of persons, irrespective of the denomination given such organization or group.
- (i) "Political contribution" means and has the same definition as is given that term under the provisions of article eight, chapter three of this code.
- (j) "Public employee" means any full-time or part-time employee of any state, county or municipal governmental body or any political subdivision thereof, including county school boards.
- (k) "Public official" means any person who is elected or appointed to any state, county or

municipal office or position and who is responsible for the making of policy or takes official action which is either ministerial or nonministerial, or both, with respect to: (1) Contracting for, or procurement of, goods or services; (2) administering or monitoring grants or subsidies; (3) planning or zoning; (4) inspecting, licensing, regulating or auditing any person; or (5) any other activity where the official action has an economic impact of greater than a de minimis nature on the interest or interests of any person.

(l) "Relative" means spouse, mother, father, sister, brother, son, daughter, grandmother, grandfather, grandchild, mother-in-law, father-in-law, sister-in-law, brother-in-law, son-in-law or daughter-in-law.

(m) "Respondent" means a person who is the subject of an investigation by the commission or against whom a complaint has been filed with the commission.

(n) "Thing of value", "other thing of value" or "anything of value" means and includes: (1) Money, bank bills or notes, United States treasury notes and other bills, bonds or notes issued by lawful authority and intended to pass and circulate as money; (2) goods and chattels; (3) promissory notes, bills of exchange, orders, drafts, warrants, checks, bonds given for the payment of money or the forbearance of money due or owing; (4) receipts given for the payment of money or other property; (5) any right or chose in action; (6) chattels real or personal or things which savor of realty and are, at the time taken, a part of a freehold, whether they are of the substance or produce thereof or affixed thereto, although there may be no interval between the severing and the taking away thereof; (7) any interest in realty, including, but not limited to, fee simple estates, life estates, estates for a term or period of time, joint tenancies, cotenancies, tenancies in common, partial interests, present or future interests, contingent or vested interests, beneficial interests, leasehold interests or any other interest or interests in realty of whatsoever nature; (8) any promise of employment, present or future; (9) donation or gift; (10) rendering of services or the payment thereof; (11) any advance or pledge; (12) a promise of present or future interest in any business or contract or other agreement; or (13) every other thing or item, whether tangible or intangible, having economic worth. "Thing of value", "other thing of value" or "anything of value" shall not include anything which is de minimis in nature nor a lawful political contribution reported as required by law.

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

(a) The financial disclosure statement shall be filed on the first day of February 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 candidacy, but in all circumstances, not later than ten days prior to the election, unless he or she has filed a financial disclosure statement with the state Ethics Commission during 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.

Note: WV Code updated with legislation passed through the 2014 1st Special Session