

OVERVIEW OF LAWS RELATING TO "THINGS OF VALUE," GIFTS, AND EXPENDITURES (Sections 112.313(2) and (4), 112.3148, 112.31485, and 112.3215, Florida Statutes)

Sections 112.313(2) and 112.313(4), Florida Statutes, prohibit solicitation and acceptance of gifts in certain situations and apply to **all** public officers and employees. Section 112.313(2) prohibits officials from soliciting or accepting *anything* of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the official's action would be influenced. Section 112.313(4) prohibits the official *or his or her spouse or minor child* from accepting anything of value when the official knows, or with the exercise of reasonable care should know, that it was given to influence the official.

EXPENDITURE BAN

Section 112.3215, Florida Statutes, prohibits officials, members, or employees of the State Executive Branch who are required by law to file full or limited public disclosure of financial interests from accepting *any* expenditure* from a lobbyist or a lobbyist's principal. Lobbyists and their principals are prohibited from making such expenditures. Legislative members and employees should refer to Section 11.045, Florida Statutes, which contains a similar restriction.

If the gift or thing of value is not prohibited by any of the above laws, then the following laws apply:

PROHIBITIONS ON GIFTS FROM POLITICAL COMMITTEES

Pursuant to Section 112.31485, Florida Statutes, reporting individuals and procurement employees and their parents, spouses, children, and siblings are prohibited from soliciting or knowingly accepting, directly or indirectly, any gift from a political committee, and a political committee is prohibited from giving, directly or indirectly, any gift to a reporting individual or procurement employee or his or her parent, spouse, child, or sibling. "Gift" is defined—*for purposes of this law only*—as "any purchase, payment, distribution, loan, advance, transfer of funds, or disbursement of money or anything of value that is not primarily related to contributions, expenditures, or other political activities authorized pursuant to chapter 106."

GIFT SOLICITATION PROHIBITIONS

Persons required to file financial disclosure Form 1 or Form 6, including candidates, and State procurement employees are prohibited from soliciting any gift from a political committee, lobbyist** of their agency, or from a partner, firm, employer, or principal of such a lobbyist*, or from a vendor of their agency.

GIFT ACCEPTANCE PROHIBITIONS

Individuals, including candidates, required to file disclosure Form 1 or Form 6 and State procurement employees are prohibited from directly or indirectly accepting a gift worth more than \$100 from a lobbyist*, from a partner, firm, employer, or principal of the lobbyist*, or from a political committee or vendor. However, a gift may be accepted by a person on behalf of a governmental entity or charitable organization, provided the gift is promptly transferred to the intended entity or organization.

GIFT GIVING PROHIBITIONS

Lobbyists, and their firms, partners, employers and principals, and political committees and vendors are prohibited from giving gifts valued at over \$100 to any person required to file Form 1 or Form 6 financial disclosure and to any State procurement employee or to others on behalf of the above.

GIFTS OVER \$25 AND NOT EXCEEDING \$100

Persons required to file financial disclosure Form 1 or Form 6, including candidates for office and State procurement employees may accept a gift valued at more than \$25 but not exceeding \$100 from a lobbyist*, the firm, partner, employer or principal of a lobbyist, or a political committee or vendor. However, any of these persons or entities who gives a gift valued at over \$25 but not exceeding \$100 to a covered reporting individual or State procurement employee must report the gift on Commission on Ethics Form 30 by the last day of the calendar quarter for gifts given in the preceding quarter. Additionally, the donor must notify the recipient at the time a reportable gift is made that the gift will be disclosed as required above.

GIFTS FROM GOVERNMENT AGENCIES and DIRECT-SUPPORT ORGANIZATIONS

State government entities, water management districts created pursuant to Section 373.069, Florida Statutes, the South Florida Regional Transportation Authority, the Technological Research and Development Authority, counties, municipalities, school boards, and airport authorities which lobby governmental entities may give a gift worth more than \$100 to a person required to file financial disclosure and to a State procurement employee if a public purpose can be shown for the gift. Also, a direct-support organization for a governmental entity may give such a gift to a person who is an officer or employee of that entity. The governmental entity or direct-support organization giving such gift must provide the recipient with a statement describing the gift, the date it was given, and its value no later than March 1 of the following year. The reporting individual/recipient then must disclose this information on Commission on Ethics Form 10, which is to be filed by July 1 with his or her annual financial disclosure.

DEFINITION OF "GIFT"

"Gift" means anything accepted by a person or on that person's behalf, whether directly or indirectly, for that person's benefit, and for which equal or greater consideration is not given within 90 days of the receipt of the gift. "Gift" includes real property or the use thereof; tangible or intangible personal property or the use thereof; a preferential rate or terms on a transaction not available to others similarly situated; forgiveness of a debt; transportation (unless provided by an agency in relation to officially approved governmental business), lodging, or parking; food or beverage; dues, fees, and tickets; plants and flowers; personal services for which a fee is normally charged by the provider; and any other thing or service having an attributable value.

"Gift" does not include salary, benefits, services, fees, gifts, commissions, or expenses associated primarily with one's employment, business, or service as an officer or director of a corporation or organization; campaign contributions or expenditures pursuant to the election laws; an honorarium or honorarium expense; an award, plaque, certificate, etc., given in recognition of public, civic, charitable, or professional service; honorary membership in a service or fraternal organization; the use of a public facility or public property made available by a governmental agency for a public purpose; and transportation provided by an agency in relation to officially approved governmental business. Also exempted are some gifts from organizations which promote the exchange of ideas between, or the professional development of, governmental officials and employees and whose membership is primarily composed of elected or appointed public officials or staff, if the gift is to a member of the organization.

QUARTERLY GIFT DISCLOSURE BY REPORTING INDIVIDUALS

All persons required to file financial disclosure and State procurement employees and who receive a gift which is not prohibited and which is worth more than \$100 must file a Form 9, Quarterly Gift Disclosure, with the Commission on Ethics no later than the last day of a calendar quarter following the quarter in which the gift

was received. Gifts from relatives, gifts prohibited from being accepted, and gifts required to be disclosed elsewhere are not reported on Form 9. The form need not be filed if no such gift was received during the calendar quarter.

*"Expenditure" is defined as a payment, distribution, loan, advance, reimbursement, deposit, or anything of value.

***"Lobbyist" means any natural person who, for compensation, seeks, or sought during the preceding 12 months, to influence the governmental decision-making of a reporting individual or procurement employee or his or her agency or seeks, or sought during the preceding 12 months, to encourage the passage, defeat, or modification of any proposal or recommendation by the reporting individual or procurement employee or his or her agency. [Section 112.3148(2)(b)1., Florida Statutes]

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