

OVERVIEW OF “GIFTS LAW” (§112.3148, FLA. STAT.)

NOTE: Two other provisions of the Code of Ethics prohibit solicitation and acceptance of gifts in certain situations. As these laws [§112.313(2) and (4), Fla. Stat.] apply to *all* public officers and employees, it is suggested that you read them as well.

§112.3215, Fla. Stat., prohibits officials, members, or employees of the State Executive Branch 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. Legislative members and employees should refer to §11.045, Fla. Stat., which contains a similar restriction.

GIFT SOLICITATION PROHIBITIONS

Each person required to file annual financial disclosure Form 1 or Form 6, including candidates for office, and each State procurement employee is prohibited from soliciting any gift from a political committee, committee of continuous existence, or lobbyist* or from a partner, firm, employer, or principal of a lobbyist*.

GIFT ACCEPTANCE PROHIBITIONS

Individuals, including candidates, required to file annual disclosure Form 1 or Form 6 (other than officials, members, or employees of the State Executive Branch and members or employees of the Legislature) and State procurement employees are prohibited from directly or indirectly accepting a gift worth over \$100 from a lobbyist*, from a partner, firm, employer, or principal of the lobbyist*, or from a political committee or committee of continuous existence. (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

Political committees and committees of continuous existence are prohibited from giving gifts valued at over \$100 to any person required to file Form 1 or Form 6 financial disclosure (other than officials, members, or employees of the State Executive Branch and members or employees of the Legislature) and to any State procurement employee or to others on behalf of the above. Lobbyists*, as well as their partners, firms, employers, and principals, similarly are prohibited from giving gifts valued at over \$100 to persons required to file Form 1 or Form 6 (other than officials, members, or employees of the State Executive Branch and members or employees of the Legislature) and to State procurement employees, or to others on their behalf, if the lobbyist* lobbies the agency of the procurement officers or persons who file disclosure.

GIFTS OVER \$25 AND NOT EXCEEDING \$100

Persons required to file financial disclosure Form 1 or Form 6, including candidates for office, (except officials, members, or employees of the State Executive Branch and members or employees of the Legislature) and State procurement employees may accept a gift valued at over \$25 but not exceeding \$100 from a lobbyist*, a political committee, or a committee of continuous existence. However, a lobbyist*, political committee, or committee of continuous existence which 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 §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 over \$100 to a person required to file financial disclosure (except officials, members, or employees of the State Executive Branch and members or employees of the Legislature) 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 must file a Form 9, Quarterly Gift Disclosure, with the Commission on Ethics on the last day of a calendar quarter for the previous calendar quarter during which a gift worth over \$100 was received. Gifts from relatives, gifts prohibited from being accepted, and gifts otherwise required to be disclosed elsewhere are not reported on Form 9. All other gifts worth over \$100 must be reported. The form need not be filed if no such gift was received during the calendar quarter.

"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. [§112.3148(2)(b)1., Fla. Stat.]