

Article 3

LEGISLATIVE AND PUBLIC OFFICIAL FINANCIAL DISCLOSURE

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2 AAC 50.680. Applicability; family member disclosure required

(a) A legislative branch filer required under AS 24.60.200 to file a financial disclosure statement shall report income received, deferred income, and business interests as required in AS 39.50.030 and 2 AAC 50.680 - 2 AAC 50.799. A legislative branch filer's disclosure statement must include the required financial information for each family member of the legislative branch filer, and for any nondependent child of the legislative branch filer whose principal residence is the same as the principal residence of the legislative branch filer.

(b) A public official or candidate required by AS 39.50.020 to file a financial disclosure statement shall report income sources, gifts, deferred income, and business interests in compliance with AS 39.50.030 and 2 AAC 50.680 - 2 AAC 50.799. The disclosure statement of a public official must contain the required information for the public official and each family member of the public official. The disclosure statement of a candidate must contain the required information for the candidate and each family member of the candidate.

2 AAC 50.685. Reporting sources of income and gifts

(a) In a disclosure statement required by AS 24.60.200 or AS 39.50.020, a legislative branch filer, public official, or candidate shall report the applicable information required in AS 39.50.030(b)(1) for all amounts greater than \$1,000 received as

- (1) compensation or benefits received from an employer, including a nonprofit entity, and a government employer; compensation or benefits include wages, salary, commissions, tips, bonuses, housing, and use of an automobile;
- (2) dividends, interest, and other distributions of earnings from a business or investment;
- (3) self-employment income as provided in 2 AAC 50.700;
- (4) rental income as provided in 2 AAC 50.725; and (5) any other income, including proceeds of a sale of goods or property, capital gains, pensions, retirement account cash-outs, government entitlements, alimony or child support payments, honoraria, and payments not otherwise accounted for.

(b) In a disclosure statement required by AS 39.50.020, a public official or candidate shall report the applicable information required in AS 39.50.030(b)(1) for any gift with a fair market value greater than \$250, and for all gifts from a single source with a cumulative value greater than \$250. A public official or candidate is not required to report an item received without consideration from a family member, a parent, nondependent child, sibling, grandparent, aunt, uncle, niece, or nephew. The requirements of this subsection do not apply to a legislative branch filer. However, nothing in this section relieves a legislative branch filer from a reporting requirement or limitation on acceptance of gifts in any other provision of law.

(c) The amount of any income more than \$1,000 that must be reported, or the value of a gift more than \$250 that must be reported, may be stated in a range rather than as an exact amount. The ranges to be used for this purpose are the following:

- (1) more than \$250 and no more than \$1,000, for gifts only;
- (2) more than \$1,000 and no more than \$2,000;
- (3) more than \$2,000 and no more than \$5,000;

- (4) more than \$5,000 and no more than \$10,000;
- (5) more than \$10,000 and no more than \$20,000;
- (6) more than \$20,000 and no more than \$50,000;
- (7) more than \$50,000 and no more than \$100,000;
- (8) more than \$100,000 and no more than \$200,000;
- (9) more than \$200,000 and no more than \$500,000;
- (10) more than \$500,000 and no more than \$1,000,000;
- (11) more than \$1,000,000.

2 AAC 50.690. Good faith effort to obtain information

In a disclosure statement required by AS 24.60.200 or AS 39.50.020, a legislative branch filer, public official, or candidate shall report the information that the legislative branch filer, public official, or candidate knows after making a good faith effort to ascertain the information. A good faith effort includes a written request to each family member of the legislative branch filer, public official, or candidate, or to the person in charge of a business in which the legislative branch filer, public official, candidate, or family member of the legislative branch filer, public official, or candidate held an interest in the reporting period

- (1) asking for the information required under AS 39.50.030 and 2 AAC 50.680 - 2 AAC 50.740; and
- (2) informing the recipient of the written request that the legislative branch filer, public official, or candidate
 - (A) is required to provide the information under oath and penalty of perjury; and
 - (B) may be subject to the penalties or other remedies set out in the applicable provisions of AS 24.60.240 - 24.60.260, AS 39.50.060 - 39.50.080, 39.50.110, 39.50.130, or 39.50.135 for failure to provide the information.

2 AAC 50.695. Reporting deferred income

- (a) In a disclosure statement required by AS 24.60.200 or AS 39.50.020, a legislative branch filer, public official, or candidate shall report any source of income earned but deferred for payment after the end of the reporting period.
- (b) Income reported as deferred when earned must also be reported as income in the year the money or item of value is received.
- (c) This section does not apply to earned income that a legislative branch filer, public official, candidate, or family member of the legislative branch filer, public official, or candidate voluntarily elects to defer into a tax-advantaged retirement savings plan, including a plan under 26 U.S.C. 401(k), a plan under 26 U.S.C. 403(b), an individual retirement account under 26 U.S.C. 408 (IRA), and a deferred compensation plan under 26 U.S.C. 457 of a state or local government or tax-exempt organization. An interest in a tax-advantaged retirement plan must be reported as a beneficial interest under AS 39.50.030(b)(4) and 2 AAC 50.712.

2 AAC 50.700. Reporting self-employment and business income

(a) In a disclosure statement required under AS 24.60.200 or AS 39.50.020, a legislative branch filer, public official, or candidate who is self-employed by means of a sole proprietorship, partnership, limited liability company, or professional corporation shall report the applicable information required in AS 39.50.030(b)(1) for each source of income as provided in AS 39.50.200(10).

(b) A legislative branch filer, public official, or candidate who is self-employed by a corporation in which the legislative branch filer, public official, or candidate holds a controlling interest shall report the applicable information required in AS 39.50.030(b)(1) for each source of income as provided in AS 39.50.200(10). In this subsection, "controlling interest" means the legislative branch filer, public official, or candidate, alone or in combination with one or more family members, controls

(1) 50 percent or more of the ownership interest or voting shares of the corporation; or

(2) less than 50 percent if the legislative branch filer, public official, or candidate and all family members of the legislative branch filer, public official, or candidates jointly exert actual control as demonstrated by

(A) making decisions for the corporation without independent participation of other owners;

(B) exercising day-to-day control over the corporation's affairs;

(C) disregarding formal legal requirements;

(D) using corporation funds for personal expenses or investments, or intermingling corporation finances with personal finances; or

(E) taking other actions that indicate the corporation is a mere instrumentality of the legislative branch filer, public official, or candidate.

(c) A legislative branch filer, public official, or candidate who has an ownership interest in, but is not self-employed by means of, a business that is a source of income shall report income from that business as provided in 2 AAC 50.685(a).

(d) Nothing in this section requires a business to keep records that identify each client, patient, or customer in a transaction involving less than \$1,000 if the business does not record the names of customers in the ordinary course of its business, or for accounting or any other purpose required by law.

2 AAC 50.704. Reporting income from attorney contingency fee agreements

If a legislative branch filer, public official, candidate, or family member has self-employment income based on attorney fee agreements that are contingent on the outcome of the matter for which the service is rendered, the legislative branch filer, public official, or candidate shall report

(1) the total amount received from contingency fee agreements in the reporting period; and

(2) the name of each client from whom or on whose behalf the legislative branch filer, public official, candidate, or family member received a contingency payment; for each named client, the legislative branch filer, public official, or candidate shall also list

(A) the recipient of the contingency fee, including the legislative branch filer, public official, candidate, or family member;

(B) whether the income was earned under a fee agreement contingent on the outcome of the matter for which the service was rendered, as provided in Rule 1.5, Alaska Rules of Professional Conduct; and

(C) a description of services that conveys the nature of the service performed without violating privileged communications or client confidences.

2 AAC 50.705. Reporting sources of income from retail businesses

Repealed.

2 AAC 50.708. Reporting business interests and investments

(a) In a disclosure statement required under AS 24.60.200 or AS 39.50.020, a legislative branch filer, public official, or candidate shall report the information required in AS 39.50.030(b)(2) and this section for each business in which the legislative branch filer, public official, candidate, or family member held an interest or an option to purchase in the reporting period. A business interest includes a nonprofit entity if the legislative branch filer, public official, candidate, or family member is an employee, officer, or member of the governing board of the nonprofit entity.

(b) For each business interest reported, the disclosure statement must identify

(1) the nature of the interest of the legislative filer, public official, candidate, or family member, including stockholder, owner, officer, director, partner, proprietor, member, employee, or similar interest by any other name; and

(2) the category of income in 2 AAC 50.685(a) in which any income or benefit received from the business is reported.

(c) A legislative branch filer, public official, or candidate who owns stock investments other than trust and beneficial interests as provided in 2 AAC 50.712, and who directly and individually selects the investments, shall report each owned company by name and address. A legislative branch filer, public official, or candidate who owns stock investments selected and managed by an investment manager, financial services company, or other third party, or held in an investment fund, shall report the name and address of each investment manager, financial services company, or other third party, and shall report the name and type of any investment fund held. This subsection does not require reporting of an interest of less than \$1,000 in the stock of a publicly traded corporation.

2 AAC 50.710. Reporting sources of income from political campaigns

Repealed.

2 AAC 50.712. Reporting trusts and beneficial interests

(a) In a disclosure statement required by AS 24.60.200 or AS 39.50.020, a legislative branch filer, public official, or candidate shall report each trust fund, retirement account, or other beneficial interest in which the legislative branch filer, public official, candidate or family member holds an interest. This section does not require reporting of unvested interests, contingent interests, or other similar interests that provide no current income and may be modified before the death of another person who holds the interest.

(b) For each trust fund, retirement account, or other beneficial interest reported, the disclosure statement must include

- (1) the information required by AS 39.50.030(b)(4);
- (2) the name of the legislative branch filer, public official, candidate, or family member who holds the interest; and
- (3) for any family trust or other beneficial interest that is held by related persons, the total percentage held by
 - (A) a public official, candidate, and all family members of the public official or candidate; or
 - (B) a legislative branch filer, all family members of the legislative branch filer, and all nondependent children living with the legislative branch filer.

(c) In this section, "trust fund, retirement account, or other beneficial interest" includes

- (1) a retirement system plan administered by this state, another state, or the federal government;
- (2) an employee pension plan, profit-sharing trust, family trust, education trust, deferred compensation plan, annuity plan, or other similar arrangement intended to provide future income or financial benefits to a legislative branch filer, public official, candidate, or family member.

2 AAC 50.715. Reporting sources of income from gifts

Repealed.

2 AAC 50.720. Reporting interests in real property

In a disclosure statement required by AS 24.60.200 or AS 39.50.020, a legislative branch filer, public official, or candidate shall report an interest in real property by

- (1) the address or other legal description of the property, except that a primary residence or recreational property held for personal use may be described only by zip code; and
- (2) the nature of the interest that the legislative branch filer, public official, candidate, or family member held in the property; the nature of interests to be reported includes fee simple ownership, tenancy in common, general or limited partnership interest, and holder of an option to purchase.

2 AAC 50.725. Reporting sources of income from rental property

In a disclosure statement required by AS 24.60.200 or AS 39.50.020, a legislative branch filer, public official, or candidate shall report rental property that is a source of income as follows:

- (1) if any person paid more than \$1,000 in rent during the preceding year, the name of that person and the amount of the rent paid; and
- (2) if the property is managed by a person other than the legislative branch filer, public official, candidate, or a family member of the legislative branch filer, public official or candidate, the name of the manager.

2 AAC 50.730. Duty to report family member financial affairs

Repealed.

2 AAC 50.735. Duty to report concluded business interests

Repealed.

2 AAC 50.740. Reporting loans, loan guarantees, and indebtedness

(a) In reporting the identity of each creditor as required under AS 39.50.030(b)(5), a public official or candidate

(1) shall include any government entity that has filed a tax lien against property owned by the public official, candidate, or family member, or that claims any other indebtedness from the public official, candidate, or family member;

(2) is not required to list any retail charge account creditor, revolving charge account creditor, or credit card creditor.

(b) A legislative branch filer shall report the information required under AS 24.60.200(3) regarding any loan or loan guarantee made by a person who has a substantial interest in legislative, administrative, or political action. A person has a substantial interest in legislative, administrative, or political action if the person

(1) meets one or more of the criteria set out in AS 24.60.990(b);

(2) employs a lobbyist during any part of the period covered by the disclosure statement;

(3) is a municipality or local government entity; or

(4) receives a benefit or avoids a disadvantage as a direct result of a legislative, administrative, or political action, including an action concerning a professional or occupational license, a natural resource permit or quota, a rate of assessment or taxation, a health, safety, or environmental standard, or an insurance or business practice; a person will be presumed to have a substantial interest in legislative action under this paragraph if the legislator or legislative director filing a disclosure statement participated in legislative action that resulted in the benefit or the avoided disadvantage.

2 AAC 50.745. Substantial interest in legislative, administrative, or political actions

Repealed.

2 AAC 50.765. Controlling interest in a corporation

Repealed.

2 AAC 50.770. Reporting sources and amounts of income from self-employment

Repealed.

2 AAC 50.775. Exemption from reporting sources of income

(a) A legislative branch filer, public official, or candidate required under AS 24.50.200 or AS 39.50.020 to file a disclosure statement may, for any reason set out in this section, request an exemption from the requirement to report the name of an individual who was a source of income, the amount of income, or any other information required under AS 39.50.030 or 2 AAC 50.680 - 2 AAC 50.740. An exemption request must comply with 2 AAC 50.821. The person requesting any exemption has the burden of proving each fact necessary to show that an exemption available under this section is applicable.

(b) A legislative branch filer, public official, or candidate may request an exemption from the requirement to report the name of a source of income, the amount of income, or any other information required under AS 39.50.030 or 2 AAC 50.680 - 2 AAC 50.740 regarding an individual who received

(1) mental health services provided by a mental health practitioner including a psychiatrist, psychologist, or therapist;

(2) medical services and the source of income was

(A) an individual who received medical services related to abortion, contraception, reproductive health, a sexual disorder, or a terminal illness;

(B) a minor who received medical services without the knowledge of a parent or legal guardian if a reasonable person in the situation of the minor would experience substantial concern, anxiety, or embarrassment from publication of the minor's name as a source of income;

(C) a married individual who received medical services without the knowledge of the individual's spouse if a reasonable person in the situation of the individual would experience substantial concern, anxiety, or embarrassment from publication of the individual's name as a source of income; or

(D) an individual who received medical services of any nature if at least 67 percent of the patients of a self-employed legislative branch filer, public official, candidate, or family member were individuals described in (A) - (C) of this paragraph; or

(3) legal services provided by an attorney and the source of income was

(A) a minor who received legal services without the knowledge of a parent or legal guardian if a reasonable person in the situation of the minor would experience substantial concern, anxiety, or embarrassment from publication of the minor's name as a source of income;

(B) a married individual who received legal services without the knowledge of the individual's spouse if a reasonable person in the situation of the individual would experience substantial concern, anxiety, or embarrassment from publication of the individual's name as a source of income;

(C) an individual who received legal services of any nature if at least 67 percent of the clients of a self-employed legislative branch filer, public official, candidate, or family member were individuals described in (A) or (B) of this paragraph.

(c) A legislative branch filer, public official, or candidate may request an exemption if

(1) the legislative branch filer, public official, or candidate is prohibited by law or court-ordered settlement from reporting the name of a source of income, the amount of income, or any other information required under AS 39.50.030 or 2 AAC 50.680 - 2 AAC 50.740;

(2) the legislative branch filer, public official or candidate believes reporting the name of a source of income, the amount of income, or any other information required under AS 39.50.030 or 2 AAC 50.680 - 2 AAC 50.740, would violate rights of the source under state or federal statutes or constitutions;

(3) the legislative branch filer, public official, or candidate believes that reporting the name of a source of income would disclose protected health information that the filer is prohibited from disclosing under 42 U.S.C. 1320d - 1320d-9 (Health Insurance Portability and Accountability Act (HIPAA) of 1996).

(d) A legislative branch filer, public official, or candidate may request a personal security exemption from reporting the name of a minor that is a source of income, the amount of income, or any other information required under AS 39.50.030 or 2 AAC 50.680 - 2 AAC 50.740 that exposes the public official, candidate, or a family member to a personal security threat.

(e) A legislative branch filer, public official, or candidate may request an exemption from reporting the name of a source of income, the amount of income, or any other information required under AS 39.50.030 or 2 AAC 50.680 - 2 AAC 50.740 if a state or federal law or court order requires the name of the source or the other information to be kept confidential.

(f) Notwithstanding any other provision of this section, a legislative branch filer, public official, or candidate may request an exemption from reporting the name of a source of income, the amount of income, or any other information required under AS 39.50.030 or 2 AAC 50.680 - 2 AAC 50.740, if the public official or candidate demonstrates that the right to privacy of the information outweighs the compelling state interest in disclosing the information.

2 AAC 50.780. Commission consideration of exemption requests

Repealed.

2 AAC 50.785. Filing

Repealed.

2 AAC 50.790. Civil penalty for late or incomplete disclosure statements

Repealed.

2 AAC 50.795. Procedures for late disclosure statements

Repealed.

2 AAC 50.799. Definitions

(a) In AS 39.50.200(10) and 2 AAC 50.680 - 2 AAC 50.799, "self-employed" and "self-employment" means the person described

(1) has an ownership interest in the business entity from which that person derives income; and

(2) is directly and actively involved with known or identifiable persons that are clients, patients, or customers of the business by

(A) soliciting the business or patronage of the client, patient, or customer; or

(B) personally providing services to the client, patient, or customer.

(b) In 2 AAC 50.680 - 2 AAC 50.799, unless the context requires otherwise,

(1) "administrative action" has the meaning given in AS 24.60.990;

(2) "legislative action" has the meaning given in AS 24.60.990.