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By the Committees on Rules; and Ethics and Elections; and Senators Brodeur and Rodrigues

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A bill to be entitled

An act relating to financial disclosures; amending s.

99.061, F.S.; revising qualification requirements for certain candidates; amending s. 112.3144, F.S.; revising the date by which full and public disclosure of financial interests must be filed electronically; requiring the Commission on Ethics to accept only disclosures in paper form through a specified date; requiring the commission to post a specified notice on its website for a certain timeframe; requiring the commission to accept federal income tax returns, financial statements, and other forms or attachments showing sources of income for a specified purpose; deleting the prohibition on including a federal income tax return or a copy thereof for certain filings; revising the date by which paper forms will no longer be provided; revising the date by which certain notices must be delivered electronically; revising the date by which the commission must provide verification

disclosure be sworn; requiring specified local officers to file a full and public disclosure of financial interests; requiring members of the Commission on Ethics and the Florida Elections Commission to file a full and public disclosure of financial interests; amending s. 112.31445, F.S.; requiring the commission to publish a specified notice

of receiving a disclosure, upon the request of the

filer; revising the date by which a written

declaration satisfies the condition that the

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regarding electronic filing to filers; requiring the commission to post a specified notice regarding paper forms for a certain timeframe; providing an additional specification for the electronic filing of full and public disclosures; amending s. 112.31446, F.S.; revising minimum requirements for the electronic filing system; amending s. 112.3145, F.S.; requiring certain local officers to file their statements of financial interests with a specified supervisor of elections until a specified date; requiring the electronic filing of certain documents after a specified date; requiring the commission to accept only statements of financial interests, final statements of financial interests, and any amendments thereto, or any other forms submitted in paper form until a specified date; requiring the commission to post a specified notice on its website for a certain timeframe; removing the future prohibition on including a federal income tax return or a copy thereof in a filing; revising the date by which paper forms will no longer be provided; requiring certain delinquency notices to be sent by certified mail until a specified date; prohibiting certain delinquency notices from being sent by certified mail after a specified date; exempting specified local officers from filing a statement of financial interests to conform to changes made by the act; amending s. 112.324, F.S.; authorizing the commission to dismiss financial disclosure complaints alleging de minimis

violations; authorizing the commission to adopt emergency rules for a specified purpose, subject to specified conditions; providing for expiration of the emergency rulemaking authority; providing effective dates.

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Be It Enacted by the Legislature of the State of Florida:

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Section 1. Effective January 1, 2023, subsection (5) and paragraph (a) of subsection (7) of section 99.061, Florida Statutes, are amended to read:

99.061 Method of qualifying for nomination or election to federal, state, county, or district office.—

(5) At the time of qualifying for office, each candidate for a constitutional office and each candidate for other elective office subject to an annual filing requirement under s. 112.3144 shall file a full and public disclosure of financial interests pursuant to s. 8, Art. II of the State Constitution, which must be verified under oath or affirmation pursuant to s. 92.525(1)(a), and a candidate for any other office, including local elective office, shall file a statement of financial interests pursuant to s. 112.3145. A candidate subject to an annual filing requirement under s. 112.3144 may submit a verification or receipt of electronic filing pursuant to s. 112.3144(4). A candidate subject to an annual filing requirement under s. 112.3145 may file a verification or receipt of electronic filing pursuant to s. 112.3145(2)(c) unless the candidate is required to file a full and public disclosure of financial interests pursuant to s. 8, Art. II of the State

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Constitution or this subsection.

(7) (a) In order for a candidate to be qualified, the following items must be received by the filing officer by the end of the qualifying period:

- 1. A properly executed check drawn upon the candidate's campaign account payable to the person or entity as prescribed by the filing officer in an amount not less than the fee required by s. 99.092, unless the candidate obtained the required number of signatures on petitions pursuant to s. 99.095. The filing fee for a special district candidate is not required to be drawn upon the candidate's campaign account. If a candidate's check is returned by the bank for any reason, the filing officer <u>must shall</u> immediately notify the candidate, and the candidate <u>has shall have</u> until the end of qualifying to pay the fee with a cashier's check purchased from funds of the campaign account. Failure to pay the fee as provided in this subparagraph disqualifies shall disqualify the candidate.
- 2. The candidate's oath required by s. 99.021, which must contain the name of the candidate as it is to appear on the ballot; the office sought, including the district or group number if applicable; and the signature of the candidate, which must be verified under oath or affirmation pursuant to s. 92.525(1)(a).
- 3. If the office sought is partisan, the written statement of political party affiliation required by s. 99.021(1)(b); or if the candidate is running without party affiliation for a partisan office, the written statement required by s. 99.021(1)(c).
 - 4. The completed form for the appointment of campaign

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treasurer and designation of campaign depository, as required by s. 106.021.

5. The full and public disclosure or statement of financial interests required by subsection (5). A public officer who has filed the full and public disclosure or statement of financial interests with the Commission on Ethics or the supervisor of elections <u>before</u> prior to qualifying for office may file a copy of that disclosure at the time of qualifying <u>or a verification</u> or receipt of electronic filing as provided in subsection (5).

Section 2. Paragraph (a) of subsection (1), subsection (2), paragraph (c) of subsection (6), paragraphs (a) and (c) of subsection (7), and subsection (8) of section 112.3144, Florida Statutes, are amended to read:

112.3144 Full and public disclosure of financial interests.—

- (1) (a) An officer who is required by s. 8, Art. II of the State Constitution to file a full and public disclosure of his or her financial interests for any calendar or fiscal year, or any other person required by law to file a disclosure under this section, shall file that disclosure with the Florida Commission on Ethics. Additionally, an officer who is required to file a full and public disclosure of his or her financial interests under this part and to complete annual ethics training pursuant to s. 112.3142 must certify on his or her full and public disclosure of financial interests that he or she has completed the required training.
- (2) Beginning January 1, 2023 2022, all disclosures filed with the commission must be filed electronically through an electronic filing system that is created and maintained by the

commission as provided in s. 112.31446. Through December 31, 2022, the commission may accept only disclosures filed in paper form. The commission shall post a notice on its website informing filers that paper forms must be used for filing through December 31, 2022. The commission may not remove the notice until January 1, 2023.

(6)

- (c) Each separate source and amount of income which exceeds \$1,000 must be identified. For the purposes of reporting income, the commission shall accept federal income tax returns, financial statements, and other forms or attachments showing sources of income Beginning January 1, 2022, a federal income tax return may not be used for purposes of reporting income, and the commission may not accept a federal income tax return or a copy thereof.
- (7) (a) Beginning January 1, 2022, a filer may not include in a filing to the commission a federal income tax return or a copy thereof; a social security number; a bank, mortgage, or brokerage account number; a debit, charge, or credit card number; a personal identification number; or a taxpayer identification number. If a filer includes such information in his or her filing, the information may be made available as part of the official records of the commission available for public inspection and copying unless redaction is requested by the filer. The commission is not liable for the release of social security numbers or bank account, debit, charge, or credit card numbers included in a filing to the commission if the filer has not requested redaction of such information.
 - (c) The commission must conspicuously post a notice, in

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substantially the following form, in the instructions for the electronic filing system specifying that:

- 1. Any filer submitting information through the electronic filing system may not include a federal income tax return or a copy thereof; a social security number; a bank, mortgage, or brokerage account number; a debit, charge, or credit card number; a personal identification number; or a taxpayer identification number in any filing unless required by law.
- 2. Information submitted through the electronic filing system may be open to public inspection and copying.
- 3. Any filer has a right to request that the commission redact from his or her filing any social security number, bank account number, or debit, charge, or credit card number contained in the filing. Such request must be made in writing and delivered to the commission. The request must specify the information to be redacted and the specific section or sections of the disclosure in which it was included.
- (8) Forms or fields of information for compliance with the full and public disclosure requirements of s. 8, Art. II of the State Constitution shall be prescribed by the commission. The commission shall allow a filer to include attachments or other supporting documentation when filing a disclosure. The commission shall give notice of disclosure deadlines and delinquencies and distribute forms in the following manner:
- (a) Not later than May 1 of each year, the commission shall prepare a current list of the names, e-mail addresses, and physical addresses of and the offices held by every person required to file full and public disclosure annually by s. 8, Art. II of the State Constitution, or other state law. Each unit

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of government shall assist the commission in compiling the list by providing to the commission not later than February 1 of each year the name, e-mail address, physical address, and name of the office held by such person within the respective unit of government as of December 31 of the preceding year.

- (b) Not later than June 1 of each year, the commission shall distribute a copy of the form prescribed for compliance with full and public disclosure and a notice of the filing deadline to each person on the list. Beginning January 1, 2023 2022, no paper forms will not be provided. The notice required under this paragraph and instructions for electronic submission of the form and any accompanying attachments must be delivered by e-mail.
- (c) Not later than August 1 of each year, the commission shall determine which persons on the list have failed to file full and public disclosure and shall send delinquency notices to such persons. Each notice must state that a grace period is in effect until September 1 of the current year. Beginning January 1, 2023 2022, the notice required under this paragraph must be delivered by e-mail and must be redelivered on a weekly basis by e-mail as long as a person remains delinquent.
- (d) Disclosures must be received by the commission not later than 5 p.m. of the due date. However, any disclosure that is postmarked by the United States Postal Service by midnight of the due date is deemed to have been filed in a timely manner, and a certificate of mailing obtained from and dated by the United States Postal Service at the time of the mailing, or a receipt from an established courier company which bears a date on or before the due date, constitutes proof of mailing in a

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timely manner. Beginning January 1, $\underline{2023}$ $\underline{2022}$, upon request of the filer, the commission must provide verification to the filer that the commission has received the filed disclosure.

- (e) Beginning January 1, $\underline{2023}$ $\underline{2022}$, a written declaration, as provided for under s. 92.525(2), accompanied by an electronic signature satisfies the requirement that the disclosure be sworn.
- (f) Any person who is required to file full and public disclosure of financial interests and whose name is on the commission's list, and to whom notice has been sent, but who fails to timely file is assessed a fine of \$25 per day for each day late up to a maximum of \$1,500; however this \$1,500 limitation on automatic fines does not limit the civil penalty that may be imposed if the statement is filed more than 60 days after the deadline and a complaint is filed, as provided in s. 112.324. The commission must provide by rule the grounds for waiving the fine and the procedures by which each person whose name is on the list and who is determined to have not filed in a timely manner will be notified of assessed fines and may appeal. The rule must provide for and make specific the following:
- 1. The amount of the fine due is based upon the earliest of the following:
 - a. When a statement is actually received by the office.
 - b. When the statement is postmarked.
 - c. When the certificate of mailing is dated.
- d. When the receipt from an established courier company is dated.
- 2. Upon receipt of the disclosure statement or upon accrual of the maximum penalty, whichever occurs first, the commission

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shall determine the amount of the fine which is due and shall notify the delinquent person. The notice must include an explanation of the appeal procedure under subparagraph 3. Such fine must be paid within 30 days after the notice of payment due is transmitted, unless <u>an</u> appeal is made to the commission pursuant to subparagraph 3. The moneys shall be deposited into the General Revenue Fund.

- 3. Any reporting person may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on the designated due date, and may request and is entitled to a hearing before the commission, which may waive the fine in whole or in part for good cause shown. Any such request must be in writing and received by the commission within 30 days after the notice of payment due is transmitted. In such a case, the reporting person must, within the 30-day period, notify the person designated to review the timeliness of reports in writing of his or her intention to bring the matter before the commission. For purposes of this subparagraph, "unusual circumstances" does not include the failure to monitor an e-mail account or failure to receive notice if the person has not notified the commission of a change in his or her e-mail address.
- (g) Any person subject to the annual filing of full and public disclosure under s. 8, Art. II of the State Constitution, or other state law, whose name is not on the commission's list of persons required to file full and public disclosure is not subject to the fines or penalties provided in this part for failure to file full and public disclosure in any year in which the omission occurred, but nevertheless is required to file the

disclosure statement.

- (h) The notification requirements and fines of this subsection do not apply to candidates or to the first filing required of any person appointed to elective constitutional office or other position required to file full and public disclosure, unless the person's name is on the commission's notification list and the person received notification from the commission. The appointing official shall notify such newly appointed person of the obligation to file full and public disclosure by July 1. The notification requirements and fines of this subsection do not apply to the final filing provided for in subsection (10).
- (i) Notwithstanding any provision of chapter 120, any fine imposed under this subsection which is not waived by final order of the commission and which remains unpaid more than 60 days after the notice of payment due or more than 60 days after the commission renders a final order on the appeal must be submitted to the Department of Financial Services as a claim, debt, or other obligation owed to the state, and the department shall assign the collection of such fine to a collection agent as provided in s. 17.20.
- Section 3. Effective January 1, 2023, paragraphs (d) and (e) are added to subsection (1) of section 112.3144, Florida Statutes, to read:
- 112.3144 Full and public disclosure of financial interests.—

(1)

(d) The following local officers must comply with the financial disclosure requirements of s. 8, Art. II of the State

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595-02954-22 2022510c2 320 Constitution and this section: 321 1. Mayors. 322 2. City commissioners. 323 3. Elected members of a city council; town council; village 324 council; or other governing body of a city, town, or village. 325 4. City, county, town, or village managers. 326 (e) Each member of the commission and the Florida Elections 327 Commission must comply with the financial disclosure requirements of s. 8, Art. II of the State Constitution and this 328 329 section. 330 Section 4. Subsections (4), (5), and (6) are added to 331 section 112.31445, Florida Statutes, to read: 332 112.31445 Electronic filing system; full and public disclosure of financial interests.-333 334 (4) The commission shall publish a notice on the electronic 335 filing system instructing filers to redact a social security 336 number; a bank, mortgage, or brokerage account number; a debit, 337 charge, or credit card number; a personal identification number; 338 or a taxpayer identification number in their filings. 339 (5) The commission shall post a notice on the main webpage 340 of the electronic filing system informing filers that the 341 electronic filing system will not accept any electronic filings until January 1, 2023, and that paper forms must be used through 342 343 December 31, 2022, in accordance with s. 112.3144(2). The 344 commission may not remove the notice until January 1, 2023. 345 (6) The electronic filing system must allow a filer to 346 include attachments or other supporting documentation when

Section 5. Subsection (2) of section 112.31446, Florida

submitting a disclosure through the system.

Statutes, is amended to read:

112.31446 Electronic filing system for financial disclosure.—

- (2) By January 1, 2022, the commission shall procure and test an electronic filing system. <u>Upon the electronic filing system's implementation</u> At a minimum, the electronic filing system must meet the following minimum requirements:
- (a) Provide access through the Internet for the completion and submission of disclosures of financial interests, statements of financial interests, or any other form that is required under s. 112.3144 or s. 112.3145.
- (b) Make filings available in a searchable format that is accessible by an individual using standard Internet-browsing software.
- (c) Issue a verification or receipt that the commission has received the submitted disclosure or statement.
- (d) Provide security that prevents unauthorized access to the electronic filing system's functions or data.
- (e) Provide a method for an attorney or a certified public accountant licensed in this state to complete the disclosure or statement and certify that he or she prepared the disclosure or statement in accordance with s. 112.3144 or s. 112.3145 and the instructions for completing the disclosure or statement, and that, upon his or her reasonable knowledge and belief, the information on the disclosure or statement is true and correct.
- (f) Allow a filer to include attachments or other supporting documentation when submitting a disclosure or a statement through the system.
 - Section 6. Paragraphs (d) and (e) of subsection (2),

paragraphs (a) and (c) of subsection (4), and paragraphs (b) and (c) of subsection (8) of section 112.3145, Florida Statutes, are amended to read:

112.3145 Disclosure of financial interests and clients represented before agencies.—

(2)

- (d) State officers and specified state employees shall file their statements of financial interests with the commission. Through December 31, 2023, local officers shall file their statements of financial interests with the supervisor of elections of the county in which they permanently reside. Through December 31, 2023, local officers who do not permanently reside in any county in this the state shall file their statements of financial interests with the supervisor of elections of the county in which their agency maintains its headquarters. Persons seeking to qualify as candidates for local public office shall file their statements of financial interests with the officer before whom they qualify.
- (e) Beginning January 1, 2024 2023, a statement of financial interests and a final statement of financial interests, and any amendments thereto, or any other form required by this section, except any statement of a candidate who is not subject to an annual filing requirement, all statements filed with the commission must be filed electronically through an electronic filing system that is created and maintained by the commission as provided in s.

 112.31446. Through December 31, 2023, the commission may only accept from filers who file with the commission a statement of financial interests, a final statement of financial interests,

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and any amendments thereto, or any other form required by this section submitted in paper form. The commission shall post a notice on its website informing filers who file with the commission that paper forms must be used for filing through December 31, 2023. The commission may not remove the notice until January 1, 2024.

- (4) (a) Beginning January 1, 2023, a filer may not include in a filing to the commission a federal income tax return or a copy of thereof; a social security number; a bank, mortgage, or brokerage account number; a debit, charge, or credit card number; a personal identification number; or a taxpayer identification number. If a filer includes such information in his or her filing, the information may be made available as part of the official records of the commission available for public inspection and copying unless redaction is requested by the filer. The commission is not liable for the release of social security numbers, bank account numbers, or debit, charge, or credit card numbers included in a filing to the commission if the filer has not requested redaction of the information.
- (c) The commission must conspicuously post a notice, in substantially the following form, in the instructions for the electronic filing system specifying that:
- 1. Any filer submitting information through the electronic filing system may not include a federal income tax return or a copy thereof; a social security number; a bank, mortgage, or brokerage account number; a debit, charge, or credit card number; a personal identification number; or a taxpayer identification number in any filing unless required by law.
 - 2. Information submitted through the electronic filing

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system may be open to public inspection and copying.

3. Any filer has a right to request that the commission redact from his or her filing any social security number, bank account number, or debit, charge, or credit card number contained in the filing. Such request must be made in writing and delivered to the commission. The request must specify the information to be redacted and the specific section or sections of the disclosure in which it was included.

- (8) Forms for compliance with the disclosure requirements of this section and a current list of persons subject to disclosure shall be created by the commission and provided to each supervisor of elections. The commission and each supervisor of elections shall give notice of disclosure deadlines and delinquencies and distribute forms in the following manner:
- (b) Not later than June 1 of each year, the commission and each supervisor of elections, as appropriate, shall distribute a copy of the form prescribed for compliance with subsection (3) and a notice of all applicable disclosure forms and filing deadlines to each person required to file a statement of financial interests. Beginning January 1, 2024 2023, no paper forms will not be provided. The notice required under this paragraph and instructions for electronic submission must be delivered by e-mail.
- (c) Not later than August 1 of each year, the commission and each supervisor of elections shall determine which persons required to file a statement of financial interests in their respective offices have failed to do so and shall send delinquency notices to these persons. Through December 31, 2023, delinquency notices must be sent by certified mail, return

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receipt requested. Each notice must state that a grace period is in effect until September 1 of the current year; that no investigative or disciplinary action based upon the delinquency will be taken by the agency head or commission if the statement is filed by September 1 of the current year; that, if the statement is not filed by September 1 of the current year, a fine of \$25 for each day late will be imposed, up to a maximum penalty of \$1,500; for notices distributed by a supervisor of elections, that he or she is required by law to notify the commission of the delinquency; and that, if upon the filing of a sworn complaint the commission finds that the person has failed to timely file the statement within 60 days after September 1 of the current year, such person will also be subject to the penalties provided in s. 112.317. Beginning January 1, 2024

- 1. May not be sent by certified mail.
- $\underline{2}$. Must be delivered by e-mail and must be redelivered on a weekly basis by e-mail as long as the person remains delinquent.

Section 7. Effective January 1, 2023, paragraph (b) of subsection (2) of section 112.3145, Florida Statutes, is amended to read:

112.3145 Disclosure of financial interests and clients represented before agencies.—

(2)

(b) Each state or local officer, except local officers specified in s. 112.3144(1)(d), and each specified state employee shall file a statement of financial interests no later than July 1 of each year. Each state officer, local officer, and specified state employee shall file a final statement of

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financial interests within 60 days after leaving his or her public position for the period between January 1 of the year in which the person leaves and the last day of office or employment, unless within the 60-day period the person takes another public position requiring financial disclosure under this section or s. 8, Art. II of the State Constitution or otherwise is required to file full and public disclosure or a statement of financial interests for the final disclosure period. Each state or local officer who is appointed and each specified state employee who is employed shall file a statement of financial interests within 30 days after from the date of appointment or, in the case of a specified state employee, after from the date on which the employment begins, except that any person whose appointment is subject to confirmation by the Senate shall file before prior to confirmation hearings or within 30 days after from the date of appointment, whichever comes first.

Section 8. Paragraph (a) of subsection (11) of section 112.324, Florida Statutes, is amended to read:

112.324 Procedures on complaints of violations and referrals; public records and meeting exemptions.—

(11) (a) Notwithstanding subsections (1)-(8), the commission may dismiss any complaint or referral at any stage of disposition if it determines that the violation that is alleged or has occurred is a de minimis violation attributable to inadvertent or unintentional error. In determining whether a violation was de minimis, the commission shall consider whether the interests of the public were protected despite the violation. This subsection does not apply to complaints or

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referrals pursuant to ss. 112.3144 and 112.3145.

Section 9. (1) The Commission on Ethics is authorized, and all conditions are deemed met, to adopt emergency rules pursuant to s. 120.54(4), Florida Statutes, for adopting the form for the full and public disclosure of financial interests, and any related filing instructions and procedures, to implement the amendments made by this act.

- (2) Notwithstanding any other law, emergency rules adopted pursuant to subsection (1) are effective for 6 months after adoption and may be renewed during the pendency of permanent rules addressing the subject of the emergency rules.
 - (3) This section expires January 1, 2023.

 Section 10. Except as otherwise expressly provided in this

act, this act shall take effect upon becoming a law.