

# **21-5-50 - For Effective Date See Note. Filing By Public Officers Filing By Candidates For Public Office Filing By Elected Officials And Members Of The General Assembly Electronic Filing Transfer Of Filings From The Secretary Of State To The Commission**

O.C.G.A. 21-5-50 (2010)

21-5-50. (For effective date, see note.) Filing by public officers; filing by candidates for public office; filing by elected officials and members of the General Assembly; electronic filing; transfer of filings from the Secretary of State to the commission

(a) (1) Except as modified in subsection (c) of this Code section with respect to candidates for state-wide elected public office, each public officer, as defined in subparagraphs (A) through (D), (F), and (G) of paragraph (22) of Code Section 21-5-3, shall file with the commission not before the first day of January nor later than July 1 of each year in which such public officer holds office other than an election year a financial disclosure statement for the preceding calendar year; and each person who qualifies as a candidate for election as a public officer, as defined in subparagraphs (A) through (D), (F), and (G) of paragraph (22) of Code Section 21-5-3, shall file with the commission, no later than the fifteenth day following the date of qualifying as a candidate, a financial disclosure statement for the preceding calendar year.

(2) Except as set forth in paragraph (3) of this subsection, a public officer, as defined in subparagraph (E) of paragraph (22) of Code Section 21-5-3, shall not be required to file a financial disclosure statement pursuant to this Code section. Each such public officer shall, however, be deemed to be a public official for purposes of Code Section 45-10-26 and shall be subject to the disclosure requirements set forth in Code Section 45-10-26. In addition, each such public officer shall file with the commission, prior to January 31 each year, an affidavit confirming that such public officer took no official action in the previous calendar year that had a material effect on such public officer's private financial or business interests.

(3) A public officer, as defined in subparagraph (E) of paragraph (22) of Code Section 21-5-3, who serves as a member of the commission shall be subject to the requirements for filing financial disclosure statements set forth in paragraph (1) of this subsection. In addition, each such public officer shall file with the commission, together with the financial disclosure statement, an affidavit confirming that such public officer took no official action in the previous calendar year that had a material effect on such public officer's private financial or business interests.

(4) Each member of the State Transportation Board shall file a financial disclosure statement for the preceding calendar year no later than the sixtieth day following such member's election to the State Transportation Board. Thereafter, each board member shall file by January 31 of each year a financial disclosure statement for the preceding year. In addition, each board member shall file with the commission, prior to January 31 of each year, an affidavit confirming that such board member took no official action in the previous calendar year that had a material effect on such board member's private financial or business interests.

(5) The commission shall review each financial disclosure statement to determine that such statement is in compliance with the requirements of this chapter.

(6) A public officer shall not, however, be required to file such a financial disclosure statement for the preceding calendar year in an election year if such public officer does not qualify for nomination for election to succeed himself or herself or for election to any other public office subject to this chapter. For purposes of this paragraph, a public officer shall not be deemed to hold office in a year in which the public officer holds office for fewer than 15 days.

(b) A financial disclosure statement shall be in the form specified by the commission and shall identify:

(1) Each monetary fee or honorarium which is accepted by a filer from speaking engagements, participation in seminars, discussion panels, or other activities which directly relate to the official duties of the filer or the office of the public officer, with a statement identifying the fee or honorarium accepted and the person from whom it was accepted;

(2) All fiduciary positions held by the candidate for public office or the filer, with a statement of the title of each such position, the name and address of the business entity, and the principal activity of the business entity;

(3) The name, address, and principal activity of any business entity or investment, exclusive of the names of individual stocks and bonds in mutual funds, and the office held by and the duties of the candidate for public office or filer within such business entity as of December 31 of the covered year in which such candidate or officer has a direct ownership interest which:

(A) Is more than 5 percent of the total interests in such business; or

(B) Has a net fair market value of \$5,000.00 or more;

(4) (A) Each tract of real property in which the candidate for public office or filer has a direct ownership interest as of December 31 of the covered year when that interest has a fair market value of \$5,000.00 or more. As used in this paragraph, the term "fair market" value means the appraised value of the property for ad valorem tax purposes. The disclosure shall contain the county and state, general description of the property, and whether the fair market value is between (i) \$5,000.00 and \$100,000.00; (ii) \$100,000.01 and \$200,000.00; or (iii) more than \$200,000.00.

(B) Each tract of real property in which the candidate for public office's spouse or filer's spouse has a direct ownership interest as of December 31 of the covered year when that interest has a fair market value of \$5,000.00 or more. The disclosure shall contain the county and state, general description of the property, and whether the fair market value is between (i) \$5,000.00 and \$100,000.00; (ii) \$100,000.01 to \$200,000.00; (iii) or more than \$200,000.00;

(5) The filer's occupation, employer, and the principal activity and address of such employer;

(6) The filer's spouse's name, occupation, employer, and the principal activity and address of such employer;

(7) If the filer has actual knowledge of such ownership interest, the name of any business or subsidiary thereof or investment, exclusive of the individual stocks, bonds, or mutual funds, as of December 31 of the covered year in which the filer's spouse or dependent children, jointly or severally, own a direct ownership interest which:

(A) Is more than 5 percent of the total interests in such business or investment, exclusive of the individual stocks and bonds in mutual funds; or

(B) Has a net fair market value of more than \$10,000.00

or in which the filer's spouse or any dependent child serves as an officer, director, equitable partner, or trustee; and

(8) All annual payments in excess of \$10,000.00 received by the filer or any business entity identified in paragraph (3) of this subsection from the state, any agency, department, commission, or authority created by the state, and authorized and exempted from disclosure under Code Section 45-10-25, and the agency, department, commission, or authority making the payments, and the general nature of the consideration rendered for the source of the payments.

(c) (1) Each person who qualifies with a political party as a candidate for party nomination to a public office elected state wide (including an incumbent public officer elected state wide qualifying to succeed himself or herself) shall file with the commission, not later than seven days after so qualifying, a financial disclosure statement. Each person who qualifies as a candidate for election to a public office elected state wide through a nomination petition or convention shall likewise file a financial disclosure statement not later than seven days after filing his or her notice of candidacy. Such financial disclosure statement shall comply with the requirements of subsections (a) and (b) of this Code section and shall in addition identify, for the preceding five calendar years:

(A) Each transaction or transactions which aggregate \$9,000.00 or more in a calendar year in which the candidate (whether for himself or herself or on behalf of any business) or any business in which such candidate or any member of his or her family has a substantial interest or is an officer of such business has transacted business with the government of the State of Georgia, the government of any political subdivision of the State of Georgia, or any agency of any such government; and

(B) Each transaction or transactions which aggregate \$9,000.00 or more in a calendar year in which the candidate or any business in which such candidate or any member of his or her family has a substantial interest or is an officer of such business received any income of any nature from any person who was at the time of such receipt of income represented by a lobbyist registered with the commission pursuant to Article 4 of this chapter.

(2) The financial disclosure statement required by paragraph (1) of this subsection shall include an itemized list of the transactions required to be reported, including the date of, dollar amount of, and parties to each such transaction. However, with respect to any transactions of a privileged nature only the total amount of such transactions shall be required to be reported, and names, dates, amounts of individual transactions, and other identifying data may be omitted; and for this purpose "transactions of a privileged nature" shall include transactions between attorney and client, transactions between psychiatrist and patient, transactions between physician and patient, and any other transactions which are by law of a similar privileged and confidential nature.

(3) The financial disclosure statement required by paragraph (1) of this subsection shall be accompanied by a financial statement of the candidate's financial affairs for the calendar year prior to the year in which the election is held and the first quarter of the calendar year in which the election is held.

(4) As used in this subsection, the term:

(A) "Agency" means any agency, authority, department, board, bureau, commission, committee, office, or instrumentality of the State of Georgia or any political subdivision of the State of Georgia.

(B) "Financial statement" means a statement of a candidate's financial affairs in a form substantially equivalent to the short form financial statement required for bank directors under the rules of the Department of Banking and Finance.

(C) "Person" and "transact business" shall have the meanings specified in Code Section 45-10-20.

(D) "Substantial interest" means the direct or indirect ownership of 10 percent or more of the assets or stock of any business.

(5) Notwithstanding any other provisions of this subsection, if, due to a special election or otherwise, a person does not qualify as a candidate for nomination or election to public office until after the filing date otherwise applicable, such person shall make the filings required by this subsection within seven days after so qualifying.

(d) All state-wide elected officials and members of the General Assembly shall file financial disclosure statements electronically with the commission.

(e) The electronic filing of any financial disclosure statement required under this article shall

constitute an affirmation that the statement is true, complete, and correct.

(f) (1) In addition to other penalties provided in this chapter, a late fee of \$125.00 shall be imposed for each financial disclosure statement that is filed late, and notice of such late fee shall be sent to the board member, candidate, and the candidate's committee by registered or certified mail or statutory overnight delivery, return receipt requested, and shall include the schedule of increasing late fees for late filings and the dates upon which such late fees shall be increased. In addition, a late fee of \$250.00 shall be imposed on the fifteenth day after the due date for such statement if such statement has not been filed. A late fee of \$1,000.00 shall be imposed on the forty-fifth day after the due date for such statement if the statement has not been filed. Campaign committee funds shall not be used to pay such penalty.

(2) The commission shall retain \$25.00 of the first late fee received for processing pursuant to the provisions of Code Section 45-12-92.1.

(g) The commission shall not require the reporting of any more information in a financial disclosure statement than is expressly required to be disclosed by this Code section.