

# Senate Bill 774 (Form 6)

New Financial Disclosure Requirements For Local Officials

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# Overview of SB 774

- Amended F.S. § 112.3144(1)(d) to requires elected members of a governing municipal body to file a Full Disclosure of Financial Interests (Form 6) with the Florida Commission on Ethics.
  - Filing deadline is July 1st
- The disclosure form is a public record and is required by law to be posted to the Commission's website

# Who Do New Financial Disclosure Requirements Apply To?

- Mayors
- Elected members of the governing body of a municipality
- Any individual appointed to replace an elected official for the remainder of a term

# When Do New Financial Disclosure Requirements Take Effect?

- SB 774 takes effect on January 1, 2024
- Resignations during calendar year 2023
  - Elected officials who resign from office must file a final financial disclosure within 60 days of leaving office
    - Form 1 filers use Form 1F
    - Form 6 filers use Form 6F
  - Per the Florida Commission on Ethics, to be eligible to file Form 1F, the official must leave office on or before **December 30, 2023**

# What Financial Information Must Be Included In Form 6 or Form 6F

- Net Worth
- Assets (valued over \$1,000)
- Liabilities (valued over \$1,000)
- Income
- Interests in specified businesses

<b>FORM 6</b>	<b>FULL AND PUBLIC DISCLOSURE OF FINANCIAL INTERESTS</b>	<b>2021</b>
Please print or type your name, mailing address, agency name, and position below:		<b>FOR OFFICE USE ONLY:</b>
LAST NAME — FIRST NAME — MIDDLE NAME:		
MAILING ADDRESS:		
CITY: ZIP: COUNTY:		
NAME OF AGENCY:		
NAME OF OFFICE OR POSITION HELD OR SOUGHT:		
CHECK IF THIS IS A FILING BY A CANDIDATE <input type="checkbox"/>		
<b>PART A -- NET WORTH</b>		
Please enter the value of your net worth as of December 31, 2021 or a more current date. [Note: Net worth is not calculated by subtracting your reported liabilities from your reported assets, so please see the instructions on page 3.]		
My net worth as of _____, 20__ was \$ _____.		
<b>PART B -- ASSETS</b>		
<b>HOUSEHOLD GOODS AND PERSONAL EFFECTS:</b> Household goods and personal effects may be reported in a lump sum if their aggregate value exceeds \$1,000. This category includes any of the following, if not held for investment purposes: jewelry, collections of stamps, guns, and numismatic items; art objects; household equipment and furnishings; clothing; other household items; and vehicles for personal use, whether owned or leased.		
The aggregate value of my household goods and personal effects (described above) is \$ _____.		
<b>ASSETS INDIVIDUALLY VALUED AT OVER \$1,000:</b>		
DESCRIPTION OF ASSET (specific description is required - see instructions p.4)	VALUE OF ASSET	
<b>PART C -- LIABILITIES</b>		
<b>LIABILITIES IN EXCESS OF \$1,000 (See instructions on page 4):</b>		
NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY	
<b>JOINT AND SEVERAL LIABILITIES NOT REPORTED ABOVE:</b>		
NAME AND ADDRESS OF CREDITOR	AMOUNT OF LIABILITY	

<b>PART D -- INCOME</b>			
Identify each separate source and amount of income which exceeded \$1,000 during the year, including secondary sources of income. Or attach a complete copy of your 2021 federal income tax return, including all W2s, schedules, and attachments. Please redact any social security or account numbers before attaching your returns, as the law requires these documents be posted to the Commission's website.			
<input type="checkbox"/> I elect to file a copy of my 2021 federal income tax return and all W2's, schedules, and attachments. [If you check this box and attach a copy of your 2021 tax return, you need not complete the remainder of Part D.]			
<b>PRIMARY SOURCES OF INCOME (See instructions on page 5):</b>			
NAME OF SOURCE OF INCOME EXCEEDING \$1,000	ADDRESS OF SOURCE OF INCOME	AMOUNT	
<b>SECONDARY SOURCES OF INCOME (Major customers, clients, etc., of businesses owned by reporting person--see instructions on page 5):</b>			
NAME OF BUSINESS ENTITY	NAME OF MAJOR SOURCES OF BUSINESS' INCOME	ADDRESS OF SOURCE	PRINCIPAL BUSINESS ACTIVITY OF SOURCE
<b>PART E -- INTERESTS IN SPECIFIED BUSINESSES [Instructions on page 6]</b>			
	BUSINESS ENTITY # 1	BUSINESS ENTITY # 2	BUSINESS ENTITY # 3
NAME OF BUSINESS ENTITY			
ADDRESS OF BUSINESS ENTITY			
PRINCIPAL BUSINESS ACTIVITY			
POSITION HELD WITH ENTITY			
I OWN MORE THAN A 5% INTEREST IN THE BUSINESS			
NATURE OF MY OWNERSHIP INTEREST			
<b>PART F - TRAINING</b>			
This section applies only to officers required to complete annual ethics training pursuant to section 112.3142, F.S. [See instructions p. 6]			
<input type="checkbox"/> I CERTIFY THAT I HAVE COMPLETED THE REQUIRED TRAINING.			
<b>OATH</b>		<b>STATE OF FLORIDA</b>	
I, the person whose name appears at the beginning of this form, do depose on oath or affirmation and say that the information disclosed on this form and any attachments hereto is true, accurate, and complete.		COUNTY OF _____ Sworn to (or affirmed) and subscribed before me by means of <input type="checkbox"/> physical presence or <input type="checkbox"/> online notarization, this _____ day of _____, 20__ by _____  (Signature of Notary Public--State of Florida)  (Print, Type, or Stamp Commissioned Name of Notary Public)	
SIGNATURE OF REPORTING OFFICIAL OR CANDIDATE _____		Personally Known _____ OR Produced Identification _____ Type of Identification Produced _____	
If a certified public accountant licensed under Chapter 473, or attorney in good standing with the Florida Bar prepared this form for you, he or she must complete the following statement:			
I, _____, prepared the CE Form 6 in accordance with Art. II, Sec. 8, Florida Constitution, Section 112.3144, Florida Statutes, and the instructions to the form. Upon my reasonable knowledge and belief, the disclosure herein is true and correct.			
Signature _____		Date _____	
<b>Preparation of this form by a CPA or attorney does not relieve the filer of the responsibility to sign the form under oath.</b>			
<b>IF ANY OF PARTS A THROUGH E ARE CONTINUED ON A SEPARATE SHEET, PLEASE CHECK HERE</b> <input type="checkbox"/>			

# Net Worth (Part A)

- Add value of all assets
  - Aggregate value of household good and personal effects reported in Part B,
  - Value of all assets worth over \$1,000 reported in Part B, and
  - Value of any asset worth less than \$1,000 that were not reported in Part B
- Then subtract value of all liabilities
  - Total value of liabilities reported in Part C, and
  - Total value of unreported liabilities
  - Does **not** include joint and several liabilities

# Assets (Part B)

- Household goods and personal effects may be reported in a lump sum if their aggregate value exceeds \$1,000
  - *E.g.*, jewelry, guns, art, furniture, vehicles for personal use (whether owned or leased)
- Assets individually valued at over \$1,000
  - *E.g.*, interests in real property; cash; stocks; bonds; bank accounts; Deferred Retirement Option Program accounts; Florida Prepaid College Plan; investment products held in IRAs, brokerage accounts, and the Florida College Investment Plan



# Liabilities (Part C)

- Generally, must report liabilities over \$1,000
  - *E.g.*, accounts, notes, and interest payable; debts or obligations to governmental entities; judgments; unpaid portion of vehicle leases
- Do not have to report the following liabilities
  - Credit card and retail installment accounts
  - Taxes owed (unless the taxes have been reduced to a judgment)
  - Contingent liabilities
  - Liabilities that are solely spouse's responsibility
- Must also report joint and several liabilities
  - Example: If you and a business partner have a \$100,000 business loan from a bank, you should report \$50,000 as a personal liability and \$50,000 as a joint and several liability

# Income (Part D)

- Can either complete Part D or attach a copy of complete federal income tax return including all schedules, W2's and attachments
- Income means the same as “gross income” for federal income tax purposes, even if the income is not actually taxable
  - *E.g.* compensation for services, gross income from business, gains from property dealings, interests, rents, dividends, pensions, IRA distributions, alimony (but not child support)
- Must also report Secondary Income, which only applies if:
  1. You owned during the disclosure period, more than 5% of the total assets or capital stock of a business entity, **and**
  2. You received more than \$1,000 in gross income from that business entity during the period

# Interests in Specified Business (Part E)

- Must disclose if you own or owned (either directly or indirectly in the form of an equitable or beneficial interest) at any time during the disclosure period, more than 5% of the total assets or capital stock of certain types of businesses
  - State and federally chartered banks; state and federal savings and loan associations; cemetery companies; insurance companies; mortgage companies; credit unions; small loan companies; alcoholic beverage licensees; pari-mutuel wagering companies, utility companies; entities controlled by the Public Service Commission; entities granted a franchise to operate by either a city or a county government
- Must disclose if you are or were at any time during the reporting period an officer, director, partner, proprietor, or agent (other than a resident agent solely for service of process)

# Reporting Spouse's Assets, Liabilities, & Income

- **Not** required to report assets or liabilities **solely** in spouse's name
- The income of your spouse need **not** be disclosed
- If there is **joint income** to you and your spouse from property you own jointly (such as interest or dividends from a bank account or stocks), you should include **all** of that income
- If you hold real or personal property jointly with another person, your interest equals your legal percentage of ownership in the property. However, assets that are held as **tenants by the entirety or jointly with right of survivorship**, including bank accounts held in such a manner, **must be reported at 100% of their value.**
- If you are **jointly and severally liable** for a debt relating to **property** you own with one or more others as **tenants by the entirety or jointly, with right of survivorship**, **report 100%** of the total amount owed.

# Potential Penalties for Failure to Comply (§ 112.317 F.S.)

- Impeachment
- Removal or suspension from office
- Public censure and reprimand
- Reduction in Salary
- Forfeiture of no more than one-third of his or her salary per month for no more than 12 months
- Civil Penalty not exceeding \$20,000

# Information from Supervisor of Elections Regarding December 2023 Resignations

- The Palm Beach County Supervisor of Elections (SOE) has advised that there will be no special elections in 2024. Therefore, midterm vacancies that are required to be filled by election must make it onto the March 2024 ballot.
- The normal cutoff date for qualified candidates to be placed on the March ballot is December 15, 2023. However, in anticipation of late-December resignations, the SOE is granting an extension specific to those instances subject to the below deadlines. Please note, some municipalities may have to amend their Charter to take advantage of SOE's proposed extension.
  - Municipalities will need to inform SOE no later than **January 2, 2024**, if they are going to have to add a race (or races), and which seats/races will be affected.
  - Qualifying would need to end by **12 noon on Friday, January 12, 2024**, with names/races to SOE no later than 3pm on Friday, January 12<sup>th</sup>.
  - SOE will prepare and proof the revised ballot by 12:00 noon on Friday, January 19<sup>th</sup>. SOE will then send it to the municipality, who will have to have it back to SOE by 5 pm on Monday, January 22<sup>nd</sup>.
  - If there are any revisions required, SOE will revise and have it back to the municipality by 4:00pm on Tuesday, January 23<sup>rd</sup>, with the municipality reviewing the revision and sending it back to SOE by 5pm on that same day.
  - SOE will send it to the printer that night and have ballots back by the end of the day on January 31.
  - Insert ballots on February 1<sup>st</sup> and mail out on February 2<sup>nd</sup>.

# Financial Reporting Requirements for Candidates

- Currently, candidates for mayor or a governing body of a municipality are not required to complete a Form 6 at the time of qualifying for office.
- SB 774, however, also amended § 99.061(5), F.S. Pursuant to these amendments, beginning on January 1, 2024, candidates for mayor or a governing body of a municipality will be required to complete a Form 6 at the time of qualifying for office.
- Any candidate who qualifies for office before January 1, 2024, is not required to complete a Form 6.
- Any candidate who qualifies for office on or after January 1, 2024, must complete a Form 6.
- If the SOE extends the qualifying period beyond January 1, 2024, pursuant to the procedures/timeline discussed on the previous slide, candidates will have to complete a Form 6.

# Thank You!!

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