

HOUSE OF REPRESENTATIVES

KENTUCKY GENERAL ASSEMBLY AMENDMENT FORM

2014 REGULAR SESSION

Amend printed copy of SB 234/GA

On page 3, following line 14, by inserting the following:

"→ Section 2. KRS 6.611 is amended to read as follows:

As used in this code, unless the context requires otherwise:

- (1) "Adversarial proceeding" means a proceeding in which decisions are made based upon evidence presented as measured against established standards, with parties having the right to appeal the decision on the record to a court.
- (2) (a) "Anything of value" includes the following:
 1. A pecuniary item, including money, or a bank bill or note;
 2. A promissory note, bill of exchange, order, draft, warrant, check, or bond given for the payment of money;
 3. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money;
 4. A stock, bond, note, or other investment interest in an entity;
 5. A receipt given for the payment of money or other property;
 6. A right in action;
 7. A gift, tangible good, chattel, or an interest in a gift, tangible good, or chattel;

Amendment No. _____

Sponsor: _____

Committee Amendment: _____

Signed: _____

Floor Amendment: _____

LRC Drafter: Woosley, Greg

Adopted: _____

Date: _____

Rejected: _____

Doc. ID: 7799

8. A loan or forgiveness of indebtedness;
 9. A work of art, antique, or collectible;
 10. An automobile or other means of personal transportation;
 11. Real property or an interest in real property, including title to realty; a fee simple or partial interest, present or future, contingent or vested, within realty; a leasehold interest; or other beneficial interest in realty;
 12. A rebate or discount in the price of anything of value unless the rebate or discount is made in the ordinary course of business to a member of the public without regard to that person's status as a legislator;
 13. A promise or offer of employment; or
 14. Any other thing of value that is pecuniary or compensatory in value to a person, or the primary significance of which is economic gain.
- (b) "Anything of value" does not include:
1. A campaign contribution properly received and reported, if reportable, as required under KRS Chapter 121;
 2. Compensation, food, beverages, entertainment, transportation, lodging, or other goods or services extended to a legislator by the legislator's private employer or by a person other than a legislative agent or employer;
 3. A usual and customary commercial loan made in the ordinary course of business, without regard to the recipient's status as a legislator, and by a person or institution authorized by law to engage in the business of making loans;
 4. A certificate, plaque, or commemorative token of less than one hundred fifty dollars (\$150) value;
 5. Informational or promotional items;
 6. Educational items;

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7. Food and beverages consumed on the premises;
 8. The cost of attendance or participation, and of food and beverages consumed, at events:
 - a. To which all members of the Kentucky Senate or the Kentucky House of Representatives, or both, are invited;
 - b. To which all members of a joint committee or task force of the Kentucky Senate and the Kentucky House of Representatives are invited;
 - c. To which a caucus of legislators approved as a caucus by the Legislative Research Commission is invited;
 - d. Sponsored or coordinated by a state or local government entity, including a state institution of higher education, provided that the cost thereof is covered by the state or local government entity or state institution of higher education; or
 - e. To which an individual legislator is invited and for which the legislator receives prior approval from a majority of the Legislative Research Commission. Costs of admittance or attendance, or the value of food or beverages consumed at these events shall not be considered anything of value. Transportation, lodging, and other ancillary expenses related to attendance or participation in these events shall be included in the definition of anything of value;
 9. Gifts from a person related by blood or marriage or a member of the legislator's household;
 10. A gift that:
 - a. Is not used; and
 - b. No later than thirty (30) days after receipt, is returned to the donor or

delivered to a charitable organization and is not claimed as a charitable contribution for federal income tax purposes;

11. The cost, paid, reimbursed, raised, or obtained by the Legislative Research Commission, for attendance or participation, and for food and beverages consumed at, and funds, goods, and services provided for conducting events sponsored or coordinated by multistate or national organizations of, or including, state governments, state legislatures, or state legislators if the attendance and expenditures by the legislator are approved in advance by the Legislative Research Commission;
 12. The cost of attendance or participation provided by the sponsoring entity, of lodging, and of food and beverages consumed, at events sponsored by or in conjunction with a civic, charitable, governmental, trade association, or community organization if the event is held within the Commonwealth of Kentucky;
 13. A gift or gifts from one member of the General Assembly to another member of the General Assembly;
 14. Anything for which the recipient pays or gives full value; or
 15. Any service spontaneously extended to a legislator in an emergency situation.
- (3) "Associated," if used with reference to an organization, includes an organization in which an individual or a member of the individual's family is a director, officer, fiduciary, trustee, agent, or partner, or owns or controls, in the aggregate, an interest of ten thousand dollars (\$10,000) or more, or an interest of five percent (5%) or more of the outstanding equity;
- (4) "Business" means any corporation, partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, professional service corporation, or any legal entity through

which business is conducted for profit;

- (5) "Business associate" includes the following:
- (a) A private employer;
 - (b) A general or limited partnership, or a general or limited partner within the partnership;
 - (c) A corporation that is family-owned or in which all shares of stock are closely held, and the shareholders, owners, and officers of such a corporation;
 - (d) A corporation in which the legislator or other person subject to this code has an investment interest, owns, or has a beneficial interest in shares of stock which constitute more than:
 - 1. Five percent (5%) of the value of the corporation; or
 - 2. Ten thousand dollars (\$10,000) at fair market value;
 - (e) A corporation, business association, or other business entity in which the legislator or other person subject to this code serves as an agent or a compensated representative;
- (6) "Candidate" means an individual who seeks nomination or election to the General Assembly. An individual is a candidate when the individual:
- (a) Files a notification and declaration for nomination for office with the Secretary of State; or
 - (b) Is nominated for office by his party under KRS 118.105, 118.115, 118.325, or 118.760;
- (7) "Charitable organization" means an organization described in 26 U.S.C. Sec. 170(c) as it currently exists or as it may be amended;
- (8) "Child" means the unemancipated minor daughter, son, stepdaughter, or stepson;
- (9) "Commission" means the Kentucky Legislative Ethics Commission;
- (10) (a) "Compensation" means:

1. An advance, salary, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money; or
 2. A contract, agreement, promise, or other obligation for an advance, conveyance, forgiveness of indebtedness, deposit, distribution, loan, payment, gift, pledge, or transfer of money for services rendered or to be rendered;
- (b) "Compensation" does not include reimbursement of expenses if:
1. The reimbursement is equal to, or less than, the amount paid for the expenses;
 2. Expense records are itemized; and
 3. No portion of the reimbursed expense is used to give anything of value to a legislator, candidate, or the spouse of a legislator or candidate;
- (11) "Economic interest" means an interest distinct from that of the general public in a state purchase, sale, lease, contract, option, or other transaction or arrangement involving property or services in which a legislator may gain an economic benefit of fifty dollars (\$50) or more;
- (12) "Employer" means any person who engages a legislative agent and in the case of a business other than a sole proprietorship or self-employed individual, it means the business entity, and not an individual officer, director, or employee thereof, except when an officer, director, or employee makes an expenditure for which he is reimbursed by the business entity;
- (13) "Engage" means to make any arrangement, and "engagement" means any arrangement, by which an individual is employed or retained for compensation to act for or on behalf of an employer to lobby;
- (14) "Ethical misconduct" means any violation of the Kentucky Code of Legislative Ethics;
- (15) (a) "Expenditure" means any of the following that is made to, at the request of, for the benefit of, or on behalf of any member of the General Assembly, the Governor, the

secretary of a cabinet listed in KRS 12.250, or any member of the staff of any of those officials:

1. A payment, distribution, loan, advance, deposit, reimbursement, or gift of money, real estate, or anything of value, including, but not limited to, food and beverages, entertainment, lodging, transportation, or honoraria;
 2. A contract, promise, or agreement, to make an expenditure; or
 3. The purchase, sale, or gift of services or any other thing of value.
- (b) "Expenditure" does not include a contribution, gift, or grant to a foundation or other charitable organization that is exempt from federal income taxation under Section 501(c)(3) of the Internal Revenue Code. "Expenditure" does not include the purchase, sale, or gift of services or any other thing of value that is available to the general public on the same terms as it is available to the persons listed in this subsection;
- (16) "Family member" means a person:
- (a) Who is the spouse, parent, sibling, child, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, or grandchild of an individual; or
 - (b) Who is a member of the individual's household, and is dependent upon the member;
- (17) "Filer" means an individual who is required to file a statement of financial interests pursuant to KRS 6.781;
- (18) (a) "Financial transaction" means a transaction or activity that is conducted or undertaken for profit and arises from the joint ownership, ownership, or part ownership in common of any real or personal property or any commercial or business enterprise of whatever form or nature between the following:
1. A legislative agent, his employer, or a member of the immediate family of the legislative agent or his employer; and
 2. Any member of the General Assembly, the Governor, the secretary of a cabinet

listed in KRS 12.250, or any member of the staff of any of the officials listed in this subparagraph;

- (b) "Financial transaction" does not include any transaction or activity:
1. Described in paragraph (a) of this subsection if it is available to the general public on the same or similar terms and conditions; or
 2. Made or let after public notice and competitive bidding or contracts that are available on similar terms to other members of the general public;
- (19) "Former legislator" means a person who previously held a position as a legislator and who no longer holds that position;
- (20) "Immediate family" means an unemancipated child residing in an individual's household, a spouse of an individual, or a person claimed by the individual's spouse as a dependent for tax purposes;
- (21) "Legislation" means bills, resolutions, amendments, nominations, and any other matter pending before the General Assembly or any of its interim committees, or the executive approval or veto of any bill acted upon by the General Assembly;
- (22) (a) "Legislative agent" means any individual who is engaged:
1. During at least a portion of his time to lobby as one (1) of his official responsibilities; or
 2. In lobbying activities as a legislative liaison of an association, coalition, or public interest entity formed for the purpose of promoting or otherwise influencing legislation.
- (b) "Legislative agent" does not include:
1. Any person who limits his lobbying activities to appearing before public meetings of legislative committees, subcommittees, or task forces, or public hearings or meetings of public agencies;

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2. A private citizen who receives no compensation for lobbying and who expresses a personal opinion; or
 3. A public servant acting in his fiduciary capacity as a representative of his agency, college, university, or city, county, urban-county, or charter county government, except persons engaged by a de jure municipal corporation, such as the Kentucky Lottery Corporation or the Kentucky Housing Corporation, institutions of higher education, or local governments, whose primary responsibility during sessions of the General Assembly is to lobby;
- (23) "Legislative interest" means a substantial economic interest, distinct from that of the general public, in one (1) or more legislative matters;
- (24) "Legislative matter" means any bill, resolution, nomination, or other issue or proposal pending before the General Assembly or any interim committee, committee, subcommittee, task force, or commission of the General Assembly;
- (25) "Legislator" means a member or member-elect of the General Assembly, and includes a former legislator for any actions or conduct by the former legislator during a period of time that he or she served in the General Assembly;
- (26) (a) "Lobby" means to promote, advocate, or oppose the passage, modification, defeat, or executive approval or veto of any legislation by direct communication with any member of the General Assembly, the Governor, the secretary of any cabinet listed in KRS 12.250, or any member of the staff of any of the officials listed in this paragraph.
- (b) "Lobbying" does not include:
1. Appearances before public meetings of the committees, subcommittees, task forces, and interim committees of the General Assembly;
 2. News, editorial, and advertising statements published in newspapers, journals,

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- or magazines, or broadcast over radio or television;
3. The gathering and furnishing of information and news by bona fide reporters, correspondents, or news bureaus to news media described in paragraph (b)2. of this subsection;
 4. Publications primarily designed for, and distributed to, members of bona fide associations or charitable or fraternal nonprofit corporations;
 5. Professional services in drafting bills or resolutions, preparing arguments on these bills or resolutions, or in advising clients and rendering opinions as to the construction and the effect of proposed or pending legislation, if the services are not otherwise connected with lobbying; or
 6. The action of any person not engaged by an employer who has a direct interest in legislation, if the person, acting under Section 1 of the Kentucky Constitution, assembles together with other persons for their common good, petitions any official listed in this subsection for the redress of grievances, or other proper purposes;
- (27) "Person" means an individual, proprietorship, firm, partnership, joint venture, joint stock company, syndicate, business, trust, estate, company, corporation, association, club, committee, organization, or group of persons acting in concert;
- (28) "Public servant" means an elected or appointed officer or employee of a federal or state agency; state institution of higher education; or a city, county, urban-county, or charter county government;
- (29) "State agency" means any department, office, commission, board, or authority within the executive department, and includes state-supported universities and colleges but does not include local boards of education; and
- (30) "Through others" means a scheme, artifice, or mechanism, the sole purpose of which is to

accomplish by indirect means, using third parties, results which would be unlawful under this code if accomplished directly between a legislator or candidate and another person or entity.

→Section 3. KRS 6.651 is amended to read as follows:

- (1) The Kentucky Legislative Ethics Commission is established as an independent authority and shall be an agency of the legislative department of state government.
- (2) The commission shall be composed of nine (9) members, not less than three (3) of whom shall be members of the largest minority party in the state, and at least one (1) of whom shall be from a minority group, which for the purposes of this section shall mean American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Asian/Pacific islander; or other ethnic group underrepresented on the commission.
- (3) The members shall be appointed in the following manner: four (4) members shall be appointed by the President of the Senate and shall represent both genders, four (4) members shall be appointed by the Speaker of the House and shall represent both genders, and one (1) member shall be appointed by the Legislative Research Commission. No member of the General Assembly shall be eligible for appointment to the commission.†
- ~~(3) The members of the commission shall be appointed within sixty (60) days of February 18, 1993. The Speaker of the House shall appoint one (1) member for an initial term of one (1) year, one (1) for a term of two (2) years, one (1) for a term of three (3) years, and one (1) for a term of four (4) years; the President of the Senate shall appoint one (1) member for a term of two (2) years, one (1) member for an initial term of three (3) years, and two (2) members for a term of four (4) years. The Legislative Research Commission shall appoint one (1) member for an initial term of three (3) years. Thereafter all appointments shall be for a full four (4) years.‡~~

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- (4) (a) Except as otherwise provided in this subsection, any vacancies shall be filled by appointment by the original appointing authority in the same manner as the original appointments.
- (b) If the President of the Senate or the Speaker of the House fails to appoint a member within sixty (60) days of a vacancy, the other respective leader shall fill the vacancy by appointment within thirty (30) days after the expiration of the initial sixty (60) day period.
- (c) If the Legislative Research Commission fails to appoint a member within sixty (60) days of a vacancy, or if any vacancy is not filled within ninety (90) days of the vacancy pursuant to paragraph (b) of this subsection, the Legislative Ethics Commission shall fill the vacancy as follows:
1. The commission shall request that the President of the Senate and the Speaker of the House each submit three (3) names to the commission of persons qualified to serve as a member of the commission; and
 2. The commission shall select one (1) of the names by lot in the manner the commission directs, provided that the selection shall be made:
 - a. In public;
 - b. From all of the names submitted by the President of the Senate and the Speaker of the House; and
 - c. In the presence of not less than four (4) members of the commission, which shall include an equal representation of the two (2) largest political parties reflected in the membership of the commission, as determined by the commission members' voter registration status at the time of the vacancy.
- (d) Any vacancy filled by other than the appointing authority specified in subsection

(3) of this section shall not reduce the number of appointments allocated to that appointing authority, and when that member's position is next vacant the appointment power shall revert back to the specified appointing authority.

- (5) Each member shall be a citizen of the United States and a resident of this Commonwealth. A member of the commission shall not be a public servant, other than in his capacity as a member of the commission or in his capacity as a special judge; a candidate for any public office; a legislative agent; an employer of a legislative agent; or a spouse or child of any of these individuals while serving as a member of the commission. In the two (2) years immediately preceding the date of his appointment, a member shall not have served as a fundraiser, as defined in KRS 121.170(2), for a candidate for Governor or the General Assembly.
- (6) Except as provided in subsection ~~(8)~~(4) of this section, a member of the commission shall serve a term of four (4) years and may be reappointed.
- (7) While serving on the commission, a member shall not:
- (a) Serve as a fundraiser for a slate of candidates for Governor and Lieutenant Governor, or candidate for Attorney General, Auditor of Public Accounts, or the General Assembly;
 - (b) Contribute to a slate of candidates for Governor and Lieutenant Governor, or candidate for Attorney General, Auditor of Public Accounts, or the General Assembly;
 - (c) Serve as an officer in a political party; or
 - (d) Participate in the management or conduct of the political campaign of a candidate.
- (8) A member shall be removed only:
- (a)* By the Legislative Research Commission~~], and only]~~ for cause; *or*
 - (b)* *By the Legislative Ethics Commission at the end of any calendar year in which the*

member fails to attend at least one-half (1/2) of all the commission meetings called under KRS 6.656 in the calendar year, or in the case of a newly appointed member, at least one-half (1/2) of all commission meetings from the time of appointment until the end of the calendar year.

Any vacancy created by a member being removed under this subsection shall be filled by appointment in accordance with subsections (3) and (4) of this section.

➔Section 4. KRS 6.731 is amended to read as follows:

A legislator, by himself or herself or through others, shall not intentionally:

- (1) Use or attempt to use his or her influence as a member of the General Assembly in any matter which involves a substantial conflict between his or her personal interest and his or her duties in the public interest. Violation of this subsection is a Class A misdemeanor;
- (2) Use his or her official position or office to obtain financial gain for himself, herself, any members of the legislator's family, or a business associate of the legislator. Violation of this subsection is a Class D felony;
- (3) Use or attempt to use his or her official position to secure or create privileges, exemptions, advantages, or treatment for himself, herself, or others in direct contravention of the public interest at large. Violation of this subsection is a Class A misdemeanor;
- (4) Use or attempt to use his or her official position to subject another person to harassment or sexual harassment. As used in this subsection, "harassment" has the same meaning as the conduct proscribed by KRS 525.070(1)(a), (b), (d), and (e), and "sexual harassment" means persistent, repetitive, or highly egregious conduct directed at a specific individual or group of individuals that a reasonable person would interpret as intentional harassment of a sexual nature, taking into consideration the full context in which the conduct occurs, as well as any conduct that violates Title VII of the Civil Rights Act of 1964, 42 U.S.C. secs. 2000e et seq., as amended. Violation of this

subsection is ethical misconduct;

(5) Use public funds, time, or personnel for his private gain or that of another, unless the use is authorized by law. Violation of this subsection is a Class A misdemeanor;

(6)~~(5)~~ Use public funds, time, or personnel for partisan political campaign activity, unless the use is:

(a) Authorized by law; or

(b) Properly incidental to another activity required or authorized by law, such as elections to constitutional or party offices within the General Assembly. Violation of this subsection is a Class A misdemeanor;

(7)~~(6)~~ Use his official legislative stationery, or a facsimile thereof, to solicit a vote or a contribution for his or another person's campaign for election or reelection to public office, or use the great seal of the Commonwealth on his campaign stationery or campaign literature. For purposes of this subsection, "official legislative stationery" means the stationery used by a legislator on a day-to-day basis for correspondence related to his duties as a member of the General Assembly. Violation of this subsection is ethical misconduct;
or~~;~~

(8)~~(7)~~ While in the discharge of the duties of his office, become intoxicated by the use of spiritous, vinous, or malt liquors, or any controlled substance, as defined in KRS 218A.010. Any legislator who is unable, incompetent, or disqualified to discharge any of the duties of his office because of the use of spiritous, vinous, or malt liquors, or any controlled substance, as defined in KRS 218A.010, shall be deemed to have violated this subsection. Violation of this subsection is ethical misconduct.

➔Section 5. The membership representation requirements in Section 3 of this Act, if not met by the current membership of the commission, shall be implemented beginning with the next vacancy or term expiration appointment by the specified appointing authority.

→Section 6. Because a complete and diverse membership of the Kentucky Legislative Ethics Commission is essential to the effective administration of the Kentucky Code of Legislative Ethics, and because a vacancy currently exists on the commission that needs to be filled, an emergency is declared to exist, and Sections 2 to 5 of this Act take effect upon its passage and approval by the Governor or upon its otherwise becoming a law."