

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact §§ 2.2-3103.1 and 30-103.1 of the Code of Virginia, relating to State and Local Government Conflict of Interests Act; certain gifts prohibited; foreign countries of concern.

[S 1002]

Approved

Be it enacted by the General Assembly of Virginia:

1. That §§ 2.2-3103.1 and 30-103.1 of the Code of Virginia are amended and reenacted as follows:

§ 2.2-3103.1. Certain gifts prohibited.

A. For purposes of this section:

"Foreign country of concern" means any country designated by the Secretary of State to have repeatedly provided support for acts of international terrorism pursuant to the National Defense Authorization Act for Fiscal Year 2019, P.L. 115-232 § 1754(c), Aug. 13, 2018; the Arms Export Control Act § 40, 22 U.S.C. § 2780; or the Foreign Assistance Act of 1961 § 620A, 22 U.S.C. § 2370.

"Person, organization, or business" includes individuals who are officers, directors, or owners of or who have a controlling ownership interest in such organization or business.

"Widely attended event" means an event at which at least 25 persons have been invited to attend or there is a reasonable expectation that at least 25 persons will attend the event and the event is open to individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are from a particular industry or profession, or (iii) who represent persons interested in a particular issue.

B. No officer or employee of a local governmental or advisory agency or candidate required to file the disclosure form prescribed in § 2.2-3117 or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the local agency of which he is an officer or an employee. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

C. No officer or employee of a state governmental or advisory agency or candidate required to file the disclosure form prescribed in § 2.2-3117 or a member of his immediate family shall solicit, accept, or receive any single gift with a value in excess of \$100 or any combination of gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his immediate family from any person that he or a member of his immediate family knows or has reason to know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4; (ii) a lobbyist's principal as defined in § 2.2-419; or (iii) a person, organization, or business who is or is seeking to become a party to a contract with the state governmental or advisory agency of which he is an officer or an employee or over which he has the authority to direct such agency's activities. Gifts with a value of less than \$20 are not subject to aggregation for purposes of this prohibition.

D. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of admission with a value in excess of \$100 when such gift is accepted or received while in attendance at a widely attended event and is associated with the event. Such gifts shall be reported on the disclosure form prescribed in § 2.2-3117.

E. Notwithstanding the provisions of subsections B and C, such officer or employee or a member of his immediate family may accept or receive a gift from a foreign dignitary with a value exceeding \$100 for which the fair market value or a gift of greater or equal value has not been provided or exchanged so long as such foreign dignitary is not a representative of a foreign country of concern. Such gift shall be accepted on behalf of the Commonwealth or a locality and archived in accordance with guidelines established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of the Commonwealth or a locality, but the value of such gift shall not be required to be disclosed.

F. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a member of his immediate family may accept or receive certain gifts with a value in excess of \$100 from a person listed in subsection B or C if such gift was provided to such officer, employee, or candidate or a member of his immediate family on the basis of a personal friendship. Notwithstanding any other provision of law, a person listed in subsection B or C may be a personal friend of such officer, employee, or candidate or his immediate family for purposes of this subsection. In determining whether

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57 a person listed in subsection B or C is a personal friend, the following factors shall be considered: (i)
 58 the circumstances under which the gift was offered; (ii) the history of the relationship between the
 59 person and the donor, including the nature and length of the friendship and any previous exchange of
 60 gifts between them; (iii) to the extent known to the person, whether the donor personally paid for the
 61 gift or sought a tax deduction or business reimbursement for the gift; and (iv) whether the donor has
 62 given the same or similar gifts to other persons required to file the disclosure form prescribed in
 63 § 2.2-3117 or 30-111.

64 G. Notwithstanding the provisions of subsections B and C, such officer, employee, or candidate or a
 65 member of his immediate family may accept or receive gifts of travel, including travel-related
 66 transportation, lodging, hospitality, food or beverages, or other thing of value, with a value in excess of
 67 \$100 that is paid for or provided by a person listed in subsection B or C when the officer, employee, or
 68 candidate has submitted a request for approval of such travel to the Council and has received the
 69 approval of the Council pursuant to § 30-356.1. Such gifts shall be reported on the disclosure form
 70 prescribed in § 2.2-3117.

71 H. During the pendency of a civil action in any state or federal court to which the Commonwealth is
 72 a party, the Governor or the Attorney General or any employee of the Governor or the Attorney General
 73 who is subject to the provisions of this chapter shall not solicit, accept, or receive any gift from any
 74 person that he knows or has reason to know is a person, organization, or business that is a party to such
 75 civil action. A person, organization, or business that is a party to such civil action shall not knowingly
 76 give any gift to the Governor or the Attorney General or any of their employees who are subject to the
 77 provisions of this chapter.

78 I. The \$100 limitation imposed in accordance with this section shall be adjusted by the Council every
 79 five years, as of January 1 of that year, in an amount equal to the annual increases for that five-year
 80 period in the United States Average Consumer Price Index for all items, all urban consumers (CPI-U),
 81 as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the nearest
 82 whole dollar.

83 J. The provisions of this section shall not apply to any justice of the Supreme Court of Virginia,
 84 judge of the Court of Appeals of Virginia, judge of any circuit court, or judge or substitute judge of any
 85 district court. However, nothing in this subsection shall be construed to authorize the acceptance of any
 86 gift if such acceptance would constitute a violation of the Canons of Judicial Conduct for the State of
 87 Virginia.

88 **§ 30-103.1. Certain gifts prohibited.**

89 A. For purposes of this section:

90 "Widely attended event" means an event at which at least 25 persons have been invited to attend or
 91 there is a reasonable expectation that at least 25 persons will attend the event and the event is open to
 92 individuals (i) who are members of a public, civic, charitable, or professional organization, (ii) who are
 93 from a particular industry or profession, or (iii) who represent persons interested in a particular issue.

94 B. No legislator or candidate for the General Assembly required to file the disclosure form prescribed
 95 in § 30-111 or a member of his immediate family shall solicit, accept, or receive any single gift for
 96 himself or a member of his immediate family with a value in excess of \$100 or any combination of
 97 gifts with an aggregate value in excess of \$100 within any calendar year for himself or a member of his
 98 immediate family from any person that he or a member of his immediate family knows or has reason to
 99 know is (i) a lobbyist registered pursuant to Article 3 (§ 2.2-418 et seq.) of Chapter 4 of Title 2.2 or (ii)
 100 a lobbyist's principal as defined in § 2.2-419. Gifts with a value of less than \$20 are not subject to
 101 aggregation for purposes of this prohibition.

102 C. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his
 103 immediate family may accept or receive a gift of food and beverages, entertainment, or the cost of
 104 admission with a value in excess in \$100 when such gift is accepted or received while in attendance at a
 105 widely attended event and is associated with the event. Such gifts shall be reported on the disclosure
 106 form prescribed in § 30-111.

107 D. Notwithstanding the provisions of subsection B, a legislator or a member of his immediate family
 108 may accept or receive a gift from a foreign dignitary with a value exceeding \$100 for which the fair
 109 market value or a gift of greater or equal value has not been provided or exchanged *so long as such*
 110 *foreign dignitary is not a representative of a foreign country of concern, as defined in § 2.2-3103.1.*
 111 Such gift shall be accepted on behalf of the Commonwealth and archived in accordance with guidelines
 112 established by the Library of Virginia. Such gift shall be disclosed as having been accepted on behalf of
 113 the Commonwealth, but the value of such gift shall not be required to be disclosed.

114 E. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his
 115 immediate family may accept or receive certain gifts with a value in excess of \$100 from a person listed
 116 in subsection B if such gift was provided to the legislator or candidate or a member of his immediate
 117 family on the basis of a personal friendship. Notwithstanding any other provision of law, a person listed

118 in subsection B may be a personal friend of the legislator or candidate or his immediate family for
119 purposes of this subsection. In determining whether a person listed in subsection B is a personal friend,
120 the following factors shall be considered: (i) the circumstances under which the gift was offered; (ii) the
121 history of the relationship between the person and the donor, including the nature and length of the
122 friendship and any previous exchange of gifts between them; (iii) to the extent known to the person,
123 whether the donor personally paid for the gift or sought a tax deduction or business reimbursement for
124 the gift; and (iv) whether the donor has given the same or similar gifts to other persons required to file
125 the disclosure form prescribed in § 2.2-3117 or 30-111.

126 F. Notwithstanding the provisions of subsection B, a legislator or candidate or a member of his
127 immediate family may accept or receive gifts of travel, including travel-related transportation, lodging,
128 hospitality, food or beverages, or other thing of value, with a value in excess of \$100 that is paid for or
129 provided by a person listed in subsection B when the legislator or candidate has submitted a request for
130 approval of such travel to the Council and has received the approval of the Council pursuant to
131 § 30-356.1. Such gifts shall be reported on the disclosure form prescribed in § 30-111.

132 G. The \$100 limitation imposed in accordance with this section shall be adjusted by the Council
133 every five years, as of January 1 of that year, in an amount equal to the annual increases for that
134 five-year period in the United States Average Consumer Price Index for all items, all urban consumers
135 (CPI-U), as published by the Bureau of Labor Statistics of the U.S. Department of Labor, rounded to the
136 nearest whole dollar.