LEGISLATIVE ACTION

Senate Comm: RCS 02/10/2022 House

The Committee on Rules (Brodeur) recommended the following:

Senate Substitute for Amendment (318288) (with title amendment)

Delete everything after the enacting clause and insert:

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

9 99.061 Method of qualifying for nomination or election to
10 federal, state, county, or district office.-

(5) At the time of qualifying for office, each candidate

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12 for a constitutional office and each candidate for other 13 elective office subject to an annual filing requirement under s. 14 112.3144 shall file a full and public disclosure of financial 15 interests pursuant to s. 8, Art. II of the State Constitution, which must be verified under oath or affirmation pursuant to s. 16 17 92.525(1)(a), and a candidate for any other office, including local elective office, shall file a statement of financial 18 interests pursuant to s. 112.3145. A candidate subject to an 19 20 annual filing requirement under s. 112.3144 may submit a 21 verification or receipt of electronic filing pursuant to s. 22 112.3144(4). A candidate subject to an annual filing requirement 23 under s. 112.3145 may file a verification or receipt of 24 electronic filing pursuant to s. 112.3145(2)(c) unless the 25 candidate is required to file a full and public disclosure of 26 financial interests pursuant to s. 8, Art. II of the State 27 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:

31 1. A properly executed check drawn upon the candidate's 32 campaign account payable to the person or entity as prescribed 33 by the filing officer in an amount not less than the fee 34 required by s. 99.092, unless the candidate obtained the 35 required number of signatures on petitions pursuant to s. 36 99.095. The filing fee for a special district candidate is not 37 required to be drawn upon the candidate's campaign account. If a 38 candidate's check is returned by the bank for any reason, the 39 filing officer must shall immediately notify the candidate, and the candidate has shall have until the end of qualifying to pay 40

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41 the fee with a cashier's check purchased from funds of the 42 campaign account. Failure to pay the fee as provided in this 43 subparagraph <u>disqualifies</u> 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 treasurer and designation of campaign depository, as required by s. 106.021.

58 5. The full and public disclosure or statement of financial 59 interests required by subsection (5). A public officer who has 60 filed the full and public disclosure or statement of financial 61 interests with the Commission on Ethics or the supervisor of 62 elections <u>before prior to</u> qualifying for office may file a copy 63 of that disclosure at the time of qualifying <u>or a verification</u> 64 <u>or receipt of electronic filing as provided in subsection (5)</u>.

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:

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112.3144 Full and public disclosure of financial



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71 (1) (a) An officer who is required by s. 8, Art. II of the 72 State Constitution to file a full and public disclosure of his 73 or her financial interests for any calendar or fiscal year, or 74 any other person required by law to file a disclosure under this 75 section, shall file that disclosure with the Florida Commission on Ethics. Additionally, an officer who is required to file a 76 77 full and public disclosure of his or her financial interests 78 under this part and to complete annual ethics training pursuant 79 to s. 112.3142 must certify on his or her full and public 80 disclosure of financial interests that he or she has completed 81 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 only accept 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 90 notice until January 1, 2023.

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(c) Each separate source and amount of income which exceeds 92 \$1,000 must be identified. For the purposes of reporting income, 93 94 the commission shall accept federal income tax returns, 95 financial statements, and other forms or attachments showing 96 sources of income Beginning January 1, 2022, a federal income 97 tax return may not be used for purposes of reporting income, and 98 the commission may not accept a federal income tax return or a



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(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; <u>or</u> 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 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.

124 3. Any filer has a right to request that the commission 125 redact from his or her filing any social security number, bank 126 account number, or debit, charge, or credit card number 127 contained in the filing. Such request must be made in writing

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128 and delivered to the commission. The request must specify the 129 information to be redacted and the specific section or sections 130 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. <u>The</u>
commission shall allow a filer to include attachments or other
<u>supporting documentation when filing a disclosure</u>. 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 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.

148 (b) Not later than June 1 of each year, the commission shall distribute a copy of the form prescribed for compliance 149 150 with full and public disclosure and a notice of the filing 151 deadline to each person on the list. Beginning January 1, 2023 152 2022, no paper forms will not be provided. The notice required 153 under this paragraph and instructions for electronic submission 154 of the form and any accompanying attachments must be delivered 155 by e-mail.

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(c) Not later than August 1 of each year, the commission



157 shall determine which persons on the list have failed to file 158 full and public disclosure and shall send delinquency notices to 159 such persons. Each notice must state that a grace period is in 160 effect until September 1 of the current year. Beginning January 161 1, <u>2023</u> <del>2022</del>, the notice required under this paragraph must be 162 delivered by e-mail and must be redelivered on a weekly basis by 163 e-mail as long as a person remains delinquent.

164 (d) Disclosures must be received by the commission not 165 later than 5 p.m. of the due date. However, any disclosure that 166 is postmarked by the United States Postal Service by midnight of 167 the due date is deemed to have been filed in a timely manner, 168 and a certificate of mailing obtained from and dated by the 169 United States Postal Service at the time of the mailing, or a 170 receipt from an established courier company which bears a date 171 on or before the due date, constitutes proof of mailing in a 172 timely manner. Beginning January 1, 2023 2022, upon request of 173 the filer, the commission must provide verification to the filer 174 that the commission has received the filed disclosure.

(e) Beginning January 1, <u>2023</u> <del>2022</del>, 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

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186 after the deadline and a complaint is filed, as provided in s. 187 112.324. The commission must provide by rule the grounds for 188 waiving the fine and the procedures by which each person whose 189 name is on the list and who is determined to have not filed in a 190 timely manner will be notified of assessed fines and may appeal. 191 The rule must provide for and make specific the following: 192 1. The amount of the fine due is based upon the earliest of 193 the following: 194 a. When a statement is actually received by the office. 195 b. When the statement is postmarked. 196 c. When the certificate of mailing is dated. 197 d. When the receipt from an established courier company is 198 dated. 199 2. Upon receipt of the disclosure statement or upon accrual 200 of the maximum penalty, whichever occurs first, the commission 201 shall determine the amount of the fine which is due and shall 202 notify the delinquent person. The notice must include an 203 explanation of the appeal procedure under subparagraph 3. Such 204 fine must be paid within 30 days after the notice of payment due 205 is transmitted, unless an appeal is made to the commission 206 pursuant to subparagraph 3. The moneys shall be deposited into 207 the General Revenue Fund. 208 3. Any reporting person may appeal or dispute a fine, based upon unusual circumstances surrounding the failure to file on 209 210 the designated due date, and may request and is entitled to a 211 hearing before the commission, which may waive the fine in whole 212 or in part for good cause shown. Any such request must be in 213 writing and received by the commission within 30 days after the 214 notice of payment due is transmitted. In such a case, the

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215 reporting person must, within the 30-day period, notify the 216 person designated to review the timeliness of reports in writing 217 of his or her intention to bring the matter before the 218 commission. For purposes of this subparagraph, "unusual 219 circumstances" does not include the failure to monitor an e-mail 220 account or failure to receive notice if the person has not notified the commission of a change in his or her e-mail 221 222 address.

223 (g) Any person subject to the annual filing of full and 224 public disclosure under s. 8, Art. II of the State Constitution, 225 or other state law, whose name is not on the commission's list 226 of persons required to file full and public disclosure is not 227 subject to the fines or penalties provided in this part for 228 failure to file full and public disclosure in any year in which 229 the omission occurred, but nevertheless is required to file the 230 disclosure statement.

231 (h) The notification requirements and fines of this 232 subsection do not apply to candidates or to the first filing 233 required of any person appointed to elective constitutional 234 office or other position required to file full and public 235 disclosure, unless the person's name is on the commission's 236 notification list and the person received notification from the 237 commission. The appointing official shall notify such newly 2.38 appointed person of the obligation to file full and public 239 disclosure by July 1. The notification requirements and fines of 240 this subsection do not apply to the final filing provided for in 241 subsection (10).

(i) Notwithstanding any provision of chapter 120, any fineimposed under this subsection which is not waived by final order

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244	of the commission and which remains unpaid more than 60 days
245	after the notice of payment due or more than 60 days after the
246	commission renders a final order on the appeal must be submitted
247	to the Department of Financial Services as a claim, debt, or
248	other obligation owed to the state, and the department shall
249	assign the collection of such fine to a collection agent as
250	provided in s. 17.20.
251	Section 3. Effective January 1, 2023, paragraphs (d) and
252	(e) are added to subsection (1) of section 112.3144, Florida
253	Statutes, to read:
254	112.3144 Full and public disclosure of financial
255	interests
256	(1)
257	(d) The following local officers must comply with the
258	financial disclosure requirements of s. 8, Art. II of the State
259	Constitution and this section:
260	1. Mayors.
261	2. City commissioners.
262	3. Elected members of a city council; town council; village
263	council; or other governing body of a city, town, or village.
264	4. City, county, town, or village managers.
265	(e) Each member of the commission and the Florida Elections
266	Commission must comply with the financial disclosure
267	requirements of s. 8, Art. II of the State Constitution and this
268	section.
269	Section 4. Subsections (4), (5), and (6) are added to
270	section 112.31445, Florida Statutes, to read:
271	112.31445 Electronic filing system; full and public
272	disclosure of financial interests

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273 (4) The commission shall publish a notice on the electronic 274 filing system instructing filers to redact a social security number; a bank, mortgage, or brokerage account number; a debit, 275 276 charge, or credit card number; a personal identification number; 277 or a taxpayer identification number in their filings. 278 (5) The commission shall post a notice on the main webpage 279 of the electronic filing system informing filers that the 280 electronic filing system will not accept any electronic filings until January 1, 2023, and that paper forms must be used through 2.81 282 December 31, 2022, in accordance with s. 112.3144(2). The 283 commission may not remove the notice until January 1, 2023. 284 (6) The electronic filing system must allow a filer to 285 include attachments or other supporting documentation when 286 submitting a disclosure through the system. 287 Section 5. Subsection (2) of section 112.31446, Florida 288 Statutes, is amended to read: 289 112.31446 Electronic filing system for financial 290 disclosure.-291 (2) By January 1, 2022, the commission shall procure and 292 test an electronic filing system. Upon the electronic filing 293 system's implementation At a minimum, the electronic filing 294 system must meet the following minimum requirements: 295 (a) Provide access through the Internet for the completion 296 and submission of disclosures of financial interests, statements 297 of financial interests, or any other form that is required under 298 s. 112.3144 or s. 112.3145. (b) Make filings available in a searchable format that is 299 300 accessible by an individual using standard Internet-browsing 301 software.

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302 (c) Issue a verification or receipt that the commission has 303 received the submitted disclosure or statement. 304 (d) Provide security that prevents unauthorized access to 305 the electronic filing system's functions or data. 306 (e) Provide a method for an attorney or a certified public 307 accountant licensed in this state to complete the disclosure or 308 statement and certify that he or she prepared the disclosure or 309 statement in accordance with s. 112.3144 or s. 112.3145 and the 310 instructions for completing the disclosure or statement, and 311 that, upon his or her reasonable knowledge and belief, the 312 information on the disclosure or statement is true and correct. 313 (f) Allow a filer to include attachments or other 314 supporting documentation when submitting a disclosure or a 315 statement through the system. 316 Section 6. Paragraphs (d) and (e) of subsection (2), paragraphs (a) and (c) of subsection (4), and paragraphs (b) and 317 318 (c) of subsection (8) of section 112.3145, Florida Statutes, are 319 amended to read: 320 112.3145 Disclosure of financial interests and clients 321 represented before agencies.-322 (2) 323 (d) State officers and specified state employees shall file 324 their statements of financial interests with the commission. 325 Through December 31, 2023, local officers shall file their 326 statements of financial interests with the supervisor of 327 elections of the county in which they permanently reside. Through December 31, 2023, local officers who do not permanently 328 329 reside in any county in this the state shall file their 330 statements of financial interests with the supervisor of

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331 elections of the county in which their agency maintains its 332 headquarters. Persons seeking to qualify as candidates for local 333 public office shall file their statements of financial interests 334 with the officer before whom they qualify.

335 (e) Beginning January 1, 2024 2023, a statement of financial interests and a final statement of financial 336 337 interests, and any amendments thereto, or any other form 338 required by this section, except any statement of a candidate 339 who is not subject to an annual filing requirement, all statements filed with the commission must be filed 340 341 electronically through an electronic filing system that is 342 created and maintained by the commission as provided in s. 112.31446. Through December 31, 2023, the commission may only 343 344 accept from filers who file with the commission a statement of 345 financial interests, a final statement of financial interests, 346 and any amendments thereto or any other form required by this section submitted in paper form. The commission shall post a 347 348 notice on its website informing filers who file with the 349 commission that paper forms must be used for filing through 350 December 31, 2023. The commission may not remove the notice 351 until January 1, 2024.

(4) (a) Beginning January 1, 2023, a filer may not include 352 in a filing to the commission a federal income tax return or a 353 copy of thereof; a social security number; a bank, mortgage, or 354 355 brokerage account number; a debit, charge, or credit card 356 number; a personal identification number; or a taxpayer 357 identification number. If a filer includes such information in 358 his or her filing, the information may be made available as part 359 of the official records of the commission available for public

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360 inspection and copying unless redaction is requested by the 361 filer. The commission is not liable for the release of social 362 security numbers, bank account numbers, or debit, charge, or 363 credit card numbers included in a filing to the commission if 364 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 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:

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389 (b) Not later than June 1 of each year, the commission and 390 each supervisor of elections, as appropriate, shall distribute a 391 copy of the form prescribed for compliance with subsection (3) 392 and a notice of all applicable disclosure forms and filing 393 deadlines to each person required to file a statement of 394 financial interests. Beginning January 1, 2024 2023, no paper 395 forms will not be provided. The notice required under this 396 paragraph and instructions for electronic submission must be 397 delivered by e-mail. 398 (c) Not later than August 1 of each year, the commission 399 and each supervisor of elections shall determine which persons 400 required to file a statement of financial interests in their 401 respective offices have failed to do so and shall send 402 delinquency notices to these persons. Through December 31, 2023, 403 delinquency notices must be sent by certified mail, return 404 receipt requested. Each notice must state that a grace period is 405 in effect until September 1 of the current year; that no 406 investigative or disciplinary action based upon the delinquency 407 will be taken by the agency head or commission if the statement 408 is filed by September 1 of the current year; that, if the 409 statement is not filed by September 1 of the current year, a 410 fine of \$25 for each day late will be imposed, up to a maximum 411 penalty of \$1,500; for notices distributed by a supervisor of 412 elections, that he or she is required by law to notify the 413 commission of the delinquency; and that, if upon the filing of a 414 sworn complaint the commission finds that the person has failed

415 to timely file the statement within 60 days after September 1 of 416 the current year, such person will also be subject to the 417 penalties provided in s. 112.317. Beginning January 1, 2024

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418	<del>2023</del> , notice required under this paragraph:
419	1. May not be sent by certified mail.
420	2. Must be delivered by e-mail and must be redelivered on a
421	weekly basis by e-mail as long as the person remains delinquent.
422	Section 7. Effective January 1, 2023, paragraph (b) of
423	subsection (2) of section 112.3145, Florida Statutes, is amended
424	to read:
425	112.3145 Disclosure of financial interests and clients
426	represented before agencies
427	(2)
428	(b) Each state or local officer, except local officers
429	specified in s. 112.3144(1)(d), and each specified state
430	employee shall file a statement of financial interests no later
431	than July 1 of each year. Each state officer, local officer, and
432	specified state employee shall file a final statement of
433	financial interests within 60 days after leaving his or her
434	public position for the period between January 1 of the year in
435	which the person leaves and the last day of office or
436	employment, unless within the 60-day period the person takes
437	another public position requiring financial disclosure under
438	this section or s. 8, Art. II of the State Constitution or
439	otherwise is required to file full and public disclosure or a
440	statement of financial interests for the final disclosure
441	period. Each state or local officer who is appointed and each
442	specified state employee who is employed shall file a statement
443	of financial interests within 30 days <u>after</u> <del>from</del> the date of
444	appointment or, in the case of a specified state employee, <u>after</u>
445	from the date on which the employment begins, except that any
446	person whose appointment is subject to confirmation by the
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447 Senate shall file before prior to confirmation hearings or 448 within 30 days after from the date of appointment, whichever comes first. 449 450 Section 8. Paragraph (a) of subsection (11) of section 451 112.324, Florida Statutes, is amended to read: 452 112.324 Procedures on complaints of violations and 453 referrals; public records and meeting exemptions.-454 (11) (a) Notwithstanding subsections (1) - (8), the commission 455 may dismiss any complaint or referral at any stage of 456 disposition if it determines that the violation that is alleged 457 or has occurred is a de minimis violation attributable to 458 inadvertent or unintentional error. In determining whether a 459 violation was de minimis, the commission shall consider whether 460 the interests of the public were protected despite the 461 violation. This subsection does not apply to complaints or 462 referrals pursuant to ss. 112.3144 and 112.3145. 463 Section 9. (1) The Commission on Ethics is authorized, and all conditions are deemed met, to adopt emergency rules pursuant 464 465 to s. 120.54(4), Florida Statutes, for adopting the form for the 466 full and public disclosure of financial interests, and any 467 related filing instructions and procedures, to implement the 468 amendments made by this act. 469 (2) Notwithstanding any other law, emergency rules adopted 470 pursuant to subsection (1) are effective for 6 months after 471 adoption and may be renewed during the pendency of permanent 472 rules addressing the subject of the emergency rules. 473 (3) This section expires January 1, 2023. 474

474 Section 10. Except as otherwise expressly provided in this 475 act, this act shall take effect upon becoming a law.

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477	=========== T I T L E A M E N D M E N T =================================
478	And the title is amended as follows:
479	Delete everything before the enacting clause
480	and insert:
481	A bill to be entitled
482	An act relating to financial disclosures; amending s.
483	99.061, F.S.; revising qualification requirements for
484	certain candidates; amending s. 112.3144, F.S.;
485	revising the date by which full and public disclosure
486	of financial interests must be filed electronically;
487	requiring the Commission on Ethics to only accept
488	disclosures in paper form through a specified date;
489	requiring the commission to post a specified notice on
490	its website for a certain timeframe; requiring the
491	commission to accept federal income tax returns,
492	financial statements, and other forms or attachments
493	showing sources of income for a specified purpose;
494	deleting the prohibition on including a federal income
495	tax return or a copy thereof for certain filings;
496	revising the date by which paper forms will no longer
497	be provided; revising the date by which certain
498	notices must be delivered electronically; revising the
499	date by which the commission must provide verification
500	of receiving a disclosure, upon the request of the
501	filer; revising the date by which a written
502	declaration satisfies the condition that the
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	disclosure be sworn; requiring specified local

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505 financial interests; requiring members of the 506 Commission on Ethics and the Florida Elections 507 Commission to file a full and public disclosure of 508 financial interests; amending s. 112.31445, F.S.; 509 requiring the commission to publish a specified notice 510 regarding electronic filing to filers; requiring the 511 commission to post a specified notice regarding paper 512 forms for a certain timeframe; providing an additional 513 specification for the electronic filing of full and 514 public disclosures; amending s. 112.31446, F.S.; 515 revising minimum requirements for the electronic 516 filing system; amending s. 112.3145, F.S.; requiring certain local officers to file their statements of 517 518 financial interests with a specified supervisor of 519 elections until a specified date; requiring the 520 electronic filing of certain documents after a 521 specified date; requiring the commission to only 522 accept statements of financial interests, final 523 statements of financial interests, and any amendments 524 thereto, or any other forms submitted in paper form 525 until a specified date; requiring the commission to 526 post a specified notice on its website for a certain 527 timeframe; removing the future prohibition on 528 including a federal income tax return or a copy 529 thereof in a filing; revising the date by which paper 530 forms will no longer be provided; requiring certain 531 delinquency notices to be sent by certified mail until 532 a specified date; prohibiting certain delinguency 533 notices from being sent by certified mail after a

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534 specified date; exempting specified local officers 535 from filing a statement of financial interests to 536 conform to changes made by the act; amending s. 537 112.324, F.S.; authorizing the commission to dismiss 538 financial disclosure complaints alleging de minimis 539 violations; authorizing the commission to adopt 540 emergency rules for a specified purpose, subject to specified conditions; providing for expiration of the 541 542 emergency rulemaking authority; providing effective 543 dates.