

5/9/23. Vermont State Ethics Commission Comments on Proposed Financial Disclosure Language, Draft No. 2.9, 5/3/23.

§ 2414 CANDIDATES FOR STATE AND LEGISLATIVE OFFICE; DISCLOSURE FORM § 2415 FAILURE TO FILE; PENALTIES

§ 2415 (d)(1) A candidate for State office, county office, State Senator, or State Representative who files a disclosure with intent to defraud, falsify, conceal, or cover up by any trick, scheme, or device a material fact, or with intent to defraud make any false, fictitious, or fraudulent claim or representation as to a material fact, or with intent to defraud make or use any writing or document knowing the same to contain any false, fictitious, or fraudulent claim or entry as to a material fact shall be considered to have made a false claim for the purposes of 13 V.S.A. § 3016

§ 2415 (d)(1) A candidate for State office, county office, State Senator, or State Representative **who fails to file a disclosure** or files a disclosure with intent to defraud, falsify, conceal, or cover up by any trick, scheme, or device a material fact, or with intent to defraud make any false, fictitious, or fraudulent claim or representation as to a material fact, or with intent to defraud make or use any writing or document knowing the same to contain any false, fictitious, or fraudulent claim or entry as to a material fact shall be considered to have made a false claim for the purposes of 13 V.S.A. § 3016

Comment: Our understanding is that the above changes were made in response to comments submitted by the Office of the Attorney General. We do not object to those comments. However, our understanding is that the Attorney General’s main objection was to language in the prior draft that stated, “In interpreting this statute, any information required to be disclosed in a disclosure shall be deemed a material fact.” Perhaps inadvertently, the revised language removed a reference to “failure to file” from the list of prohibited actions. We strongly recommend reinstating language referencing “failure to file” as a prohibited act. Suggested language above, in bold.

§ 2415 (b)(2) Complaints regarding any candidate for State office, county office, State Senator, or State Representative who fails to properly file a disclosure required under this subchapter pursuant to this subsection shall be accepted, reviewed, referred, and kept confidential pursuant to 3 V.S.A. § 1223 and §2904a of this title.

§ 2415 (b)(2) Pursuant to 3 V.S.A. § 1223 and §2904a of this title, complaints regarding any candidate for State office, county office, State Senator, or State Representative who fails to properly file a disclosure required under this subchapter, **may be filed with the State Ethics Commission. The Executive Director of the State Ethics Commission shall refer complaints to the Attorney General or to the State’s Attorney of jurisdiction for investigation, as appropriate.**

Comment: Our understanding is that the above changes were made in response to comments submitted by the Office of the Attorney General. We agree with those comments. However, for reader clarity we suggest cross-referencing the statutes as recommended by OAG, but also reinstating language regarding the course of action to be taken. The language above, in bold, is in line with 3 V.S.A. § 1223.