

**STATEMENT OF EMERGENCY**  
**9 KAR 1:040E**

Nature of the emergency: This emergency administrative regulation is one that must be placed into effect immediately in order to meet the requirements of SB 6, which governs the procedures for administrative hearings. The amendment to the administrative regulation involves the procedures for filing of lobbyist forms required by KRS 11A.211 and includes changes to the lobbyist forms required by SB 6. SB 6 will become effective on June 27, 2019. The reasons why an ordinary administrative regulation is not sufficient: An ordinary administrative regulation is not sufficient because it will not be in effect by the time the new amendments to KRS 11A.211 become effective on June 27, 2019. This emergency administrative regulation shall be replaced by an ordinary administrative regulation filed with the Regulations Compiler. The ordinary administrative regulation is identical to this emergency administrative regulation.

HON. MATTHEW BEVIN, Governor  
HON. CHRISTOPHER L. THACKER, Chair

**FINANCE AND ADMINISTRATION CABINET**  
**Executive Branch Ethics Commission**  
**(Emergency Amendment)**

**9 KAR 1:040E. Executive agency lobbyist, employer or executive agency lobbyist, and real party in interest registration[Registration] and expenditure statements; financial transactions and termination forms; and enforcement.**

RELATES TO: KRS 11A.201, 11A.211, 11A.216, 11A.221, 11A.231, 11A.233(1), 11A.236, 11A.241(4), (5), (6), 11A.990

STATUTORY AUTHORITY: KRS 11A.110(3), (4), 11A.241(4), (5)

EFFECTIVE: May 15, 2019

NECESSITY, FUNCTION, AND CONFORMITY: KRS 11A.110(3) requires the Executive Branch Ethics Commission to promulgate administrative regulations to implement and prescribe forms for statements required by KRS Chapter 11A. KRS 11A.241(4) and (5) require the Executive Branch Ethics Commission to prescribe the initial registration statement, the updated registration statement, and the termination notice required by KRS 11A.211, the statement of expenditures required by KRS 11A.216, and the statement of financial transactions required by KRS 11A.221. This administrative regulation establishes the initial registration, financial transactions statements, [and] expenditure statements, termination notice, and enforcement procedure.

Section 1. Definitions. (1) "Agent" means the "executive agency lobbyist" as defined by KRS 11A.201(8).

(2) "Commission" means the Executive Branch Ethics Commission.

(3)[(2)] "Employer" is defined by KRS 11A.201(3).

(4)[(3)] "Executive agency decision" is defined by KRS 11A.201(7).

(5)[(4)] "Executive agency lobbyist" is defined by KRS 11A.201(8).

(6) "Filer" means the executive agency lobbyist, employer of the executive agency lobbyist, or real party in interest;

(7)[(5)] "Real party in interest" is defined by KRS 11A.201(15).

Section 2. Initial Registration Statement. (1) Until June 30, 2019, the initial registration statement [and fee] required by KRS 11A.211(1)[44A.244] shall be filed on the Initial Registration Statement [form] (Rev. 4/2016). After June 30, 2019, the initial registration statement required by KRS 11A.211(1) shall be filed on the Initial Registration Statement EBEC-EAL-201.

(2)(a) The brief description of the executive agency decision shall include the subject matter for which an executive agency lobbyist:

1. Has been engaged; or
2. Is responsible.

(b) Subject matters shall include:

1. An award of grant for social services;
2. A lease for office space or equipment;
3. A contract to provide food, clothing, or other consumable products;

4. Any decisions made concerning the matters listed in KRS 11A.201(7)(a) through (f), and 5.[4.] Any other subject matter.~~(3)(a) The signature on the Initial Registration Statement which is filed with the commission shall be submitted either in blue or black ink, electronically by facsimile, or electronic mail to the commission, or through an online system established by the commission.~~

~~(b) The forms incorporated by reference in this administrative regulation may be reproduced by an executive agency lobbyist or his employer.]~~

Section 3. (1)(a) Until July 31, 2019, if a filer submitted the initial registration statement form to the commission prior to June 30, 2019, then the updated registration statement form required by KRS 11A.211(2) shall be filed on the applicable Updated Registration Statement (Rev. 4/2016) for that filer[forms].

(b) If a filer submitted the initial registration statement form to the commission after June 30, 2019, then the updated registration form required by KRS 11A.211(2) shall be filed on the applicable Updated Registration Statement as follows:

1. For the executive agency lobbyist on:

a. The combined form EBEC-EAL-202; or

b. EBEC-EAL-203;

2. For the employer of the executive agency lobbyist on form EBEC-EAL-204; and

3. For the real party in interest on form EBEC-EAL-205.

(2) Until June 30, 2019, the notice of termination required by KRS 11A.211(4) shall be filed on the Termination Notification as Executive Agency Lobbyist (Rev. 4/2016). After June 30, 2019, the notice of termination required by KRS 11A.211(4) shall be filed on the Termination Notification as Executive Agency Lobbyist EBEC-EAL-206[form].

Section 4. Enforcement Procedure. (1) If an executive agency lobbyist, an employer of an executive agency lobbyist, or a real party in interest has not filed an Updated Registration Statement on or before the date the statement is due, the commission shall notify the party, by certified mail, return receipt requested, that if the statement is not filed within fifteen (15) days of the date of the receipt of notice the commission shall levy a fine, as provided by KRS 11A.990(5).

(2) If, by the 16th day after proof of service of the certified letter is received by the commission, the commission has not received the statement that was due by July 31, the commission shall prepare and issue to the executive agency lobbyist, employer, or real party in interest an order demanding payment of the appropriate fine as required by KRS 11A.990(5). The executive agency lobbyist, employer, or real party in interest shall pay the fine within ten (10) days from the date of the order. The commission shall exonerate or reduce the fine if the commis-

sion receives evidence during the ten (10) day fine payment period indicating the filer has already filed the updated registration statement, or that the delinquency is in error.

(3) The commission also may exonerate or reduce a fine for late filing of the updated registration statement if the commission feels that exoneration is warranted, based on the circumstances, such as illness or injury, bereavement, emergency, unforeseen circumstances beyond the control of the person, bona fide effort to file on time, or similar circumstance.

(4) If the commission is not in receipt of the fine from the executive agency lobbyist, employer, or real party in interest by the tenth day after issuance of the order demanding payment of the fine, the general counsel may recommend that the commission initiate an investigation of the executive agency lobbyist, employer, or real party in interest to determine if the failure to file was intentional causing the criminal penalties set forth in KRS 11A.990(6) to apply.

Section 5. Submission. (1) The signature on the statements and forms required by this administrative regulation shall be:

(a) In blue or black ink; or

(b) Electronic.

(2) The forms required by this administrative regulation, which are filed with the commission, shall be submitted as follows:

(a) By hard copy via hand-delivery or U.S. Mail to the Commission's address;

(b) Electronically by facsimile to (502) 696-5092

(c) Electronically by electronic mail to ethicsfiler@ky.gov; or

(c) Through an online system once established by the commission.

(3) The forms incorporated by reference in this administrative regulation may be reproduced by the executive agency lobbyist, the employer, or real party in interest.

Section 6. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) "Initial Registration Statement", rev. 04/2016;

(b) "Updated Registration Statement - Executive Agency Lobbyist", rev. 04/2016;

(c) "Updated Registration Statement - Employer of Executive Agency Lobbyist", rev. 04/2016;

(d) "Updated Registration Statement -Executive Agency Lobbyist/Employer Combined", rev. 04/2016;

(e) "Updated Registration Statement - Real Party in Interest", rev. 04/2016;

(f) "Termination Notification as Executive Agency Lobbyist", rev. 04/2016;

(g) "Commonwealth of Kentucky Registration Card Executive Agency Lobbyist", 9/93.

(h) "Initial Registration Statement" EBEC-EAL-201 (Rev. 05/2019);

(i) "Updated Registration Statement - Executive Agency Lobbyist" EBEC-EAL-202 (Rev. 05/2019);

(j) "Updated Registration Statement -Executive Agency Lobbyist/Employer Combined" EBEC-EAL-203 (Rev. 05/2019);

(k) "Updated Registration Statement - Employer of Executive Agency Lobbyist" EBEC-EAL-204 (Rev. 05/2019);

(l) "Updated Registration Statement - Real Party in Interest" EBEC-EAL-205 (Rev. 05/2016);

(m) "Termination Notification as Executive Agency Lobbyist" EBEC-EAL-206 (Rev. 05/2019);

(n) "Commonwealth of Kentucky Registration Card Executive Agency Lobbyist" (Rev. 9/93).

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Executive Branch Ethics Commission, 1025 Capital Center Drive, Suite 104[#3 Fountain

Place], Frankfort, Kentucky 40601, Monday through Friday, 8 a.m. to 4:30 p.m.

CHRISTOPHER L. THACKER, Chair

APPROVED BY AGENCY: MAY 14, 2019

FILED WITH LRC: May 15, 2019 at 10 a.m.

CONTACT PERSON: Kathryn H. Gabhart, Executive Director, Executive Branch Ethics Commission, 1025 Capital Center Drive, Suite 104, Frankfort, Kentucky 40601, phone (502) 564-7954, fax (502) 695-5939, Katie.Gabhart@ky.gov.

## REGULATORY IMPACT ANALYSIS AND TIERING STATEMENT

Contact Person: Kathryn H. Gabhart

(1) Provide a brief summary of:

(a) What this administrative regulation does: This administrative regulation provides guidance to Executive Agency Lobbyists, Employers of Executive Agency Lobbyists, and Real Parties in Interest who file an initial registration and updated registration statements with the Executive Branch Ethics Commission as required by KRS 11A.211, KRS 11A.216, KRS 11A.221, and KRS 11A.241(4).

(b) The necessity of this administrative regulation: This administrative regulation is required by KRS 11A.241(4), (5), and (6).

(c) How this administrative regulation conforms to the content of the authorizing statutes: This administrative regulation provides guidance and forms required by KRS 11A.211, KRS 11A.216, KRS 11A.221, and KRS 11A.241(4).

(d) How this administrative regulation currently assists or will assist in the effective administration of the statutes: This administrative regulation currently provides guidance and the forms required for Executive Agency Lobbyists, Employers of Executive Agency Lobbyists, and Real Parties in Interest who file an initial registration and updated registrations with the Executive Branch Ethics Commission as required by KRS 11A.211, KRS 11A.216, KRS 11A.221, and KRS 11A.241(4).

(2) If this is an amendment to an existing administrative regulation, provide a brief summary of:

(a) How the amendment will change this existing administrative regulation: This amendment will change the administrative regulation by revising the forms required by KRS 11A.211, KRS 11A.216, KRS 11A.221, and KRS 11A.241(4) as required by SB 6 of the 2019 General Assembly Session, as well as necessary changes for ease of use and aesthetic functioning of the forms.

(b) The necessity of the amendment to this administrative regulation: This amendment is necessary as required by SB 6 of the 2019 General Assembly Session.

(c) How the amendment conforms to the content of the authorizing statutes: This amendment to the administrative regulation conforms with the requirements of SB 6 of the 2019 General Assembly Session requiring changes to the forms submitted by Executive Agency Lobbyists, Employers of the Executive Agency Lobbyists, and Real Parties in Interest.

(d) How the amendment will assist in the effective administration of the statutes: This amendment to the administrative regulation will assist in the administration of KRS 11A.211 as amended by SB 6 of the 2019 General Assembly Session requiring revisions in the forms submitted by Executive Agency Lobbyists, Employers of Executive Agency Lobbyists, and Real Parties in Interest.

(3) List the type and number of individuals, businesses, organizations, or state and local governments affected by this administrative regulation: Executive Agency Lobbyists, Employers of

Executive Agency Lobbyists, Real Parties in Interest and officials of Executive Branch Agencies.

(4) Provide an analysis of how the entities identified in question (3) will be impacted by either the implementation of this administrative regulation, if new, or by the change, if it is an amendment, including: All Executive Agency Lobbyists, Employers of Executive Agency Lobbyists, Real Parties in Interest and officials of Executive Branch Agencies will be aware of the amendment of KRS 11A.211 by SB 6 of the 2019 General Assembly Session.

(a) List the actions that each of the regulated entities identified in question (3) will have to take to comply with this administrative regulation or amendment: They will have to file the required forms.

(b) In complying with this administrative regulation or amendment, how much will it cost each of the entities identified in question (3): There is no known cost associated with this amended administrative regulation.

(c) As a result of compliance, what benefits will accrue to the entities identified in question (3): All Executive Agency Lobbyists, Employers of Executive Agency Lobbyists, Real Parties in Interest and officials of Executive Branch Agencies will have guidance and notice as to the requirements of KRS 11A.211, KRS 11A.216, KRS 11A.221, and KRS 11A.241(4) and the revised forms required by SB 6 as amending KRS 11A.211.

(5) Provide an estimate of how much it will cost to implement this administrative regulation:

(a) Initially: Minimal costs to the Executive Branch Ethics Commission associated with the publication of training materials and conducting education already provided by the Commission's budget.

(b) On a continuing basis: Minimal costs to the Executive Branch Ethics Commission associated with the ongoing publication of training materials and conducting education already provided by the Commission's budget.

(6) What is the source of the funding to be used for the implementation and enforcement of this administrative regulation: The Commission's existing budget.

(7) Provide an assessment of whether an increase in fees or funding will be necessary to implement this administrative regulation, if new, or by the change, if it is an amendment: This administrative regulation will not require an increase in any fees or funding.

(8) State whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees: This administrative regulation does not establish any fees.

(9) TIERING: Is tiering applied? Tiering was not applied because this administrative regulation applies equally to all affected individuals.

## FISCAL NOTE ON STATE OR LOCAL GOVERNMENT

1. What units, parts or divisions of state or local government (including cities, counties, fire departments, or school districts) will be impacted by this administrative regulation? The Executive Branch of state government.

2. Identify each state or federal statute or federal regulation that requires or authorizes the action taken by the administrative regulation. KRS 11A.110(3) and 11A.080.

3. Estimate the effect of this administrative regulation on the expenditures and revenues of a state or local government agency (including cities, counties, fire departments, or school districts) for the first full year the administrative regulation is to be in effect.

(a) How much revenue will this administrative regulation generate for the state or local government (including cities, counties, fire departments, or school districts) for the first year? The amendment to the administrative regulation will not generate any revenue.

(b) How much revenue will this administrative regulation generate for the state or local gov-

ernment (including cities, counties, fire departments, or school districts) for subsequent years? This administrative regulation will not generate any revenue? The amendment to the administrative regulation will not generate any revenue.

(c) How much will it cost to administer this program for the first year? \$500 for publications and training; funds already included in the Executive Branch Ethics Commission's budget.

(d) How much will it cost to administer this program for subsequent years? \$500 for publication and training; funds already included in the Executive Branch Ethics Commission's budget.

Note: If specific dollar estimates cannot be determined, provide a brief narrative to explain the fiscal impact of the administrative regulation.

Revenues (+/-): None

Expenditures (+/-): None

Other Explanation: