



OHIO ETHICS COMMISSION

150 EAST BROAD STREET

COLUMBUS 43215

(614) 466-7090

Advisory Opinion No. 77-007

October 6, 1977

Syllabus by the Commission:

- 1) Section 102.02 (A)(5) of the Revised Code does not require that a city council candidate disclose the source of a personal loan against his standard life insurance policy on the financial disclosure statement filed with the Ohio Ethics Commission.
- 2) Section 102.02 (A)(5) of the Revised Code requires that a city council candidate disclose the names of all persons, including his parent or child, residing or transacting business in the state, to whom he owes more than \$1,000, either in his own name or in the name of any other person, on the financial disclosure statement filed with the Ohio Ethics Commission
- 3) Section 102.04 (A)(6) of the Revised Code requires that a city council candidate disclose the names of all persons, including his parent or child, residing or transacting business in the state, who owe him more than \$1,000, either in his own name or to any other person for his use or benefit, on the financial disclosure statement filed with the Ohio Ethics Commission.

* * * * *

In your request for an Ohio Ethics Commission Advisory Opinion, you asked whether Section 102.02 of the Revised Code, the financial disclosure provision of the Ohio Ethics Law, requires a city council candidate to disclose: 1) loans on his standard life insurance policies; or 2) loans of more than \$1,000, to or from his parent or child.

Section 102.02 of the Revised Code provides, in pertinent part:

"(A) Every person who is elected to or is a candidate for a state, county, or city office, or the office of member of the United States congress, and every person who is appointed to fill a vacancy for an unexpired term in such an elective office, and the director, assistant directors, deputy directors, division chiefs, or persons of equivalent rank of any administrative department of the state, the chief executive officer of each state retirement system, all members of the board of commissioners on grievances and discipline of the supreme court, the ethics commission created under section 102.05 of the Revised Code, and every public official or employee who is designated by the appropriate ethics commission pursuant to division (B) of this section, excluding any person elected or appointed to the office of precinct, ward, or district committee member under Chapter 3517. of the Revised Code, presidential elector, delegate to a national convention, city, exempted village, county, local, and joint vocational school district boards of education,

village officials and employees, township officials and employees, and any member of a board, commission, or bureau of any county or city who receives less than one thousand dollars per year for serving in such position, shall file with the appropriate ethics commission on a form prescribed by the commission, a statement disclosing:

.....

(5) The names of all persons residing or transacting business in the state to whom the person filing the statement owes, in his own name or in the name of any other person, more than one thousand dollars. This division shall not be construed to require the disclosure of debts owed by the person resulting from the ordinary conduct of a business or profession or debts on the person's residence or real property used primarily for personal recreation, except that the superintendent of building and loan associations shall disclose the names of all state-chartered building and loan associations and of all service corporations subject to regulation under division (E)(2) of section 1151.34 of the Revised Code to whom the superintendent in his own name or in the name of any other person owes any money, and that the superintendent of banks and any deputy superintendent shall disclose the names of all state-chartered banks and all bank subsidiary corporations subject to regulation under section 1107.35 of the Revised Code to whom such superintendent or deputy superintendent owes any money;

(6) The names of all persons residing or transacting business in the state, other than a depository excluded under division (A) (3) f this section, who owes more than one thousand dollars to the person filing the statement, either in his own name or to any other person for his use or benefit. This division shall not be construed to require the disclosure of clients of attorneys or persons licensed under section 4732.12 or 4732.15 of the Revised Code, or patients of persons certified under section 4731.14 of the Revised Code, nor the disclosure of debts owed to the person resulting from the ordinary conduct of a business or profession;

(7) The source of each gift of over five hundred dollars received by the person in his own name or by any other person for his use or benefit during the preceding calendar year, except gifts received by will or by virtue of section 2105.06 of the Revised Code, or received from parents or grandparents, or received by way of distribution from any inter vivos or testamentary trust established by a spouse or an ancestor. . . ." (emphasis added)

The first issue is whether a city council candidate is required to disclose the source of a personal loan against his standard life insurance policies. Section 102.02 (A)(5) of the Revised Code requires that a candidate for city office, including the office of member of city council (See Advisory Opinion No. 75-031), file with the Ohio Ethics Commission a statement disclosing the names of all persons residing or transacting business in the state to whom the person filing the statement owes more than \$1,000, in his own name or in the name of any other person, except debts owed to the person resulting from the ordinary conduct of a business or profession, or debts on the person's residence or real property used primarily for personal recreation.

In a standard life insurance policy, a portion of the premiums paid by the policyholder is used to pay administrative costs, and the balance becomes part of the cash value or "reserve" of the policy; in addition, certain policies accrue dividends. Section 3915.05 of the Revised Code requires that any life insurance policy issued or delivered in Ohio, other than term insurance or insurance granted as a nonforfeiture benefit, include a provision authorizing the policyholder to make a loan on the policy, in an amount equal to or less than the cash value and accrued dividends, which represent the policyholder's interest in the policy. Therefore, a "loan" against a standard life insurance policy amounts to a temporary withdrawal of the policyholder's cash value or "reserve," even though he is required to return the amount of the "loan," plus interest, to the insurance company. There is no borrower-lender relationship which might result in a conflict of interest; the policyholder is, in effect, both the borrower and the lender. Thus, there is no "loan" in the traditional sense, and therefore no real "debt" to identify for purposes of financial disclosure. We conclude, therefore, that Section 102.02 of the Revised Code does not require a city council candidate to report loans against his life insurance policies on the financial disclosure statement filed with the Ohio Ethics Commission.

The second issue is whether Section 102.02 of the Revised Code requires that a city council candidate disclose loans of more than \$1,000, to or from his parent or child, on his financial disclosure statement. In your request, you noted that both parent and child are residents of Ohio, but did not specify whether the candidate for city council was the parent or the child.

A city council candidate who receives a loan from his parent or child is required to disclose the source of the loan under Section 102.02 (A)(5) of the Revised Code, discussed supra, which requires that a candidate for city office disclose the names of all persons residing or transacting business in the state to whom he owes more than \$1,000, in his own name or in the name of any other person, except debts owed as a result of the ordinary conduct of a business or profession or debts on the person's residence or real property used primarily for personal recreation.

In your request for an advisory opinion, you indicated that the loan is personal and not a part of the ordinary conduct of a business or profession, and that it is not for the purchase of a residence or real property used primarily for personal recreation. Thus, since none of the exceptions of Section 102.02 (A)(5) of the Revised Code apply, you are required to disclose the source of the loan. We conclude, therefore, that Section 102.02 (A)(5) of the Revised Code requires that a city council candidate disclose the source of a loan of more than \$1,000, including a loan from his parent or child, on his financial disclosure statement filed with the Ohio Ethics Commission.

A city council candidate who has made a loan to his parent or child is required to report the name of the recipient of the loan under Section 102.02 (A)(6) of the Revised Code., which requires that a candidate for city office disclose the names of all persons residing or transacting business in the state who owe more than \$1,000 to the person filing the statement, either in his own name or to any other person for his use or benefit. However, it should be noted that the person filing the statement is not required to disclose the names of clients, if he is an attorney or a psychologist licensed under Chapter 4732. of the Revised Code, or patients, if he is a physician, or debts owed to the person resulting from the ordinary conduct of a business or

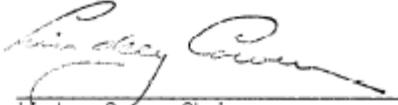
profession. In your request for an advisory opinion, you indicated that none of the exceptions are applicable in the instant case. We conclude, therefore, that Section 102.02 (A)(6) of the Revised Code requires that a city council candidate disclose the names of all persons, including his parent or child, residing or transacting business in the state ' who owe him more than \$1,000, either in his own name or to any other person for his use or benefit, on his financial disclosure statement filed with the Ohio Ethics Commission.

It should also be noted that Section 102.02 (A)(7) of the Revised Code requires disclosure of gifts of more than \$500, except gifts received by will or by descent, or gifts received from parents or grandparents or by way of distribution from any inter vivos or testamentary trust established by a spouse or ancestor.

The Ohio Ethics Commission cautions that its advisory opinions may be relied upon only with respect to questions arising under Chapter 102. and Section 2921.42 of the Revised Code, and do not address possible violations of other laws or rules.

Therefore, it is the opinion of the Ohio Ethics Commission, and you are so advised, that:

- 1) Section 102.02 (A)(5) of the Revised Code does not require that a city council candidate disclose the source of a personal loan against his standard life insurance policy on the financial disclosure statement filed with the Ohio Ethics Commission;
- 2) Section 102.02 (A)(5) of the Revised Code requires that a city council candidate disclose the names of all persons, including his parent or child, residing or transacting business in the state, to whom he owes more than \$1,000, either in his own name or in the name of any, other person, on the financial disclosure statement filed with the Ohio Ethics Commission and
- 3) Section 102.02 (A)(6) requires that a city council candidate disclose the names of all persons, including his parent or child, residing or transacting business in the state, who owe him more than \$1,000, either in his own name or to any other person for his use or benefit, on the financial disclosure statement filed with the Ohio Ethics Commission.



Lindsey Cowen, Chairman
The Ohio Ethics Commission

