

STATE OF NEW YORK

6123

2021-2022 Regular Sessions

IN ASSEMBLY

March 10, 2021

Introduced by M. of A. GALEF -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the public officers law, in relation to prohibiting public officers and employees from using nonpublic information derived from their official positions for personal benefit

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. This act shall be known and may be cited as the "New York
2 Stock Act".

3 § 2. The public officers law is amended by adding a new article 7-A to
4 read as follows:

ARTICLE 7-A

USE OF NON-PUBLIC INFORMATION FOR PERSONAL BENEFIT PROHIBITED

Section 112. Definitions.

5 112-a. Prohibition of the use of nonpublic information for
6 private profit.

7 112-b. Prohibition of insider trading.

8 112-c. Other state officials.

9 112-d. Participation in initial public offerings.

10 112-e. Rule of construction.

11 § 112. Definitions. For purposes of this article, the following terms
12 shall have the following meanings:

13 1. "member of the legislature" means a member of the New York state
14 senate or New York state assembly.

15 2. "employee of the legislature" means any officer or employee of the
16 legislature but it shall not include members of the legislature.

17 3. "executive branch employee" means:

18 a. any person employed in the civil service of this state;

19 b. the governor;

20 c. the lieutenant governor;

21 EXPLANATION--Matter in italics (underscored) is new; matter in brackets
22 [-] is old law to be omitted.

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1 d. the comptroller; and

2 e. the attorney general.

3 4. "judicial officer" means any judge or other judicial officer of
4 this state.

5 5. "judicial employee" means any officer or employee of the judiciary
6 but it shall not include judicial officers.

7 § 112-a. Prohibition of the use of nonpublic information for private
8 profit. The legislative ethics commission shall issue interpretive guid-
9 ance of the relevant rules of each chamber, including rules on conflicts
10 of interest and gifts, clarifying that a member of the legislature and
11 an employee of the legislature may not use nonpublic information derived
12 from such person's position as a member of the legislature or employee
13 of the legislature or gained from the performance of such person's offi-
14 cial responsibilities as a means for making a private profit.

15 § 112-b. Prohibition of insider trading. Subject to the rule of
16 construction under section one hundred twelve-e of this article and
17 solely for the purposes of insider trading prohibitions arising under
18 the Securities Exchange Act of 1934, each member of the legislature or
19 employee of the legislature owes a duty arising from a relationship of
20 trust and confidence to the legislature, the state, and the citizens of
21 this state with respect to material, nonpublic information derived from
22 such person's position as a member of the legislature or employee of the
23 legislature or gained from the performance of such person's official
24 responsibilities.

25 § 112-c. Other state officials. 1. a. The joint commission on public
26 ethics shall issue such interpretive guidance of the relevant state
27 ethics statutes and regulations, including the standards of ethical
28 conduct for executive branch employees, related to use of nonpublic
29 information, as necessary to clarify that no executive branch employee
30 may use nonpublic information derived from such person's position as an
31 executive branch employee or gained from the performance of such
32 person's official responsibilities as a means for making a private
33 profit.

34 b. The advisory committee on judicial ethics shall issue such inter-
35 pretive guidance of the relevant ethics rules applicable to judicial
36 officers, as necessary to clarify that no judicial officer may use
37 nonpublic information derived from such person's position as a judicial
38 officer or gained from the performance of such person's official respon-
39 sibilities as a means for making a private profit.

40 c. The advisory committee on judicial ethics shall issue such inter-
41 pretive guidance of the relevant ethics rules applicable to judicial
42 employees as necessary to clarify that no judicial employee may use
43 nonpublic information derived from such person's position as a judicial
44 employee or gained from the performance of such person's official
45 responsibilities as a means for making a private profit.

46 2. Subject to the rule of construction under section one hundred
47 twelve-e of this article and solely for the purposes insider trading
48 prohibitions arising under the Securities Exchange Act of 1934, each
49 executive branch employee, each judicial officer, and each judicial
50 employee owes a duty arising from a relationship of trust and confidence
51 to this state and the citizens of this state with respect to material,
52 nonpublic information derived from such person's position as an execu-
53 tive branch employee, judicial officer, or judicial employee or gained
54 from the performance of such person's official responsibilities.

55 § 112-d. Participation in initial public offerings. No person set
56 forth in section one hundred twelve of this article may purchase securi-

1 ties that are the subject of an initial public offering in any manner
2 other than is available to members of the public generally.

3 § 112-e. Rule of construction. Nothing in this article or the inter-
4 pretive guidance to be issued pursuant to this article shall be
5 construed to:

6 1. impair or limit the construction of the antifraud provisions of the
7 securities laws or the Commodity Exchange Act or the authority of the
8 Securities and Exchange Commission or the Commodity Futures Trading
9 Commission under those provisions;

10 2. be in derogation of the obligations, duties, and functions of a
11 member of the legislature, an employee of the legislature, an executive
12 branch employee, a judicial officer, or a judicial employee, arising
13 from such person's official position; or

14 3. be in derogation of existing laws, regulations, or ethical obli-
15 gations governing members of the legislature, employees of the legisla-
16 ture, executive branch employees, judicial officers, or judicial employ-
17 ees.

18 § 3. This act shall take effect immediately.