STATE OF NEW YORK

8742

IN SENATE

April 6, 2022

Introduced by Sen. REICHLIN-MELNICK -- read twice and ordered printed, and when printed to be committed to the Committee on Ethics and Internal Governance

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:

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

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

ARTICLE 7-A
USE OF NON-PUBLIC INFORMATION FOR PERSONAL BENEFIT PROHIBITED

Section 112. Definitions.
112-a. Prohibition of the use of nonpublic information for private profit.
112-b. Prohibition of insider trading.
112-c. Other state officials.
112-d. Participation in initial public offerings.
112-e. Rule of construction.

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

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

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

3. "executive branch employee" means:

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

b. the governor;

c. the lieutenant governor;

d. the comptroller; and

e. the attorney general.

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

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

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

§ 112-a. Prohibition of the use of nonpublic information for private profit. The legislative ethics commission shall issue interpretive guidance of the relevant rules of each chamber, including rules on conflicts of interest and gifts, clarifying that a member of the legislature and an employee of the legislature may not use nonpublic information derived from such person's position as a member of the legislature or employee of the legislature or gained from the performance of such person's official responsibilities as a means for making a private profit.

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

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

b. The advisory committee on judicial ethics shall issue such interpretive guidance of the relevant ethics rules applicable to judicial officers, as necessary to clarify that no judicial officer may use nonpublic information derived from such person's position as a judicial officer or gained from the performance of such person's official responsibilities as a means for making a private profit.

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

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

§ 112-d. Participation in initial public offerings. No person set forth in section one hundred twelve of this article may purchase securities that are the subject of an initial public offering in any manner other than is available to members of the public generally.

§ 112-e. Rule of construction. Nothing in this article or the interpretive guidance to be issued pursuant to this article shall be construed to:

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

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

3. be in derogation of existing laws, regulations, or ethical obligations governing members of the legislature, employees of the legislature, executive branch employees, judicial officers, or judicial employees.

§ 3. This act shall take effect immediately.