

# STATE OF NEW YORK

3329

2023-2024 Regular Sessions

## IN SENATE

January 30, 2023

Introduced by Sen. GOUNARDES -- 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:

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

8 Section 112. Definitions.

9 112-a. Prohibition of the use of nonpublic information for  
10 private profit.

11 112-b. Prohibition of insider trading.

12 112-c. Other state officials.

13 112-d. Participation in initial public offerings.

14 112-e. Rule of construction.

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

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

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

21 3. "executive branch employee" means:

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

23 b. the governor;

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

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1 c. the lieutenant governor;

2 d. the comptroller; and

3 e. the attorney general.

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

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

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

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

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

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

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

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

1 § 112-d. Participation in initial public offerings. No person set  
2 forth in section one hundred twelve of this article may purchase securi-  
3 ties that are the subject of an initial public offering in any manner  
4 other than is available to members of the public generally.

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

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

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

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

20 § 3. This act shall take effect immediately.