

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
94th General Assembly
Regular Session, 2023

A Bill

HOUSE BILL 1711

By: Representative A. Collins

For An Act To Be Entitled

AN ACT TO CREATE THE STOP TRADING ON CONFIDENTIAL KNOWLEDGE ACT; TO BAN STOCK TRADING BY MEMBERS OF THE GENERAL ASSEMBLY; TO REQUIRE MEMBERS OF THE GENERAL ASSEMBLY AND THEIR SPOUSES AND DEPENDENTS TO PLACE CERTAIN ASSETS INTO BLIND TRUSTS; TO AMEND THE AUTHORITY OF THE ARKANSAS ETHICS COMMISSION; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE STOP TRADING ON CONFIDENTIAL KNOWLEDGE ACT; BAN STOCK TRADING BY MEMBERS OF THE GENERAL ASSEMBLY; AND TO AMEND THE AUTHORITY OF THE ARKANSAS ETHICS COMMISSION.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. DO NOT CODIFY. Title.

This act shall be known and may be cited as the "Stop Trading on Confidential Knowledge Act".

SECTION 2. Arkansas Code Title 21, Chapter 8, is amended to add an additional subchapter to read as follows:

Subchapter 11 – Certain Assets of Members of the General Assembly, Spouses, and Dependents

21-8-1101. Definitions.



As used in this subchapter:

(1) "Commodity" means the same as defined in 7 U.S.C. § 1a, as it existed on January 1, 2023;

(2)(A) "Covered investment" means:

(i) An investment in a security, a commodity, or a future; and

(ii) An economic interest comparable to an interest described in subdivision (2)(A)(i) of this section that is acquired through synthetic means, such as the use of a derivative, including an option, warrant, or other similar means.

(B) "Covered investment" includes an investment or economic interest described in subdivision (2)(A) of this section that is held directly, or in which an individual has an indirect, beneficial, or economic interest, through:

(i) An investment fund;

(ii) A trust, other than a qualified blind trust;

(iii) An employee benefit plan; or

(iv) A deferred compensation plan, including a carried interest or other agreement tied to the performance of an investment, other than a fixed cash payment.

(C) The term "covered investment" does not include:

(i) A diversified mutual fund, including any holdings of such a fund;

(ii) A diversified exchange-traded fund, including any holdings of such a fund;

(iii) A United States Treasury bill, note, or bond;

(iv) Compensation from the primary occupation of a spouse or dependent of a Member of the General Assembly; or

(v) An investment fund held in a federal, state, or local government employee retirement plan.

(D) An investment that achieves compliance with applicable environmental, social, and governance criteria is not a "covered investment" solely by reason of that compliance;

(3) "Current" means with respect to a member of the General Assembly, an individual who is serving as a member of the General Assembly on the effective date of this subchapter;

(4) "Dependent" means, with respect to an individual, a child or other relative who is a resident of the immediate household of the individual;

(5) "Diversified" with respect to a fund, trust, or plan, means that the fund, trust, or plan does not have a stated policy of concentrating its investments in any industry, business, single country other than the United States, or bonds of a single State;

(6) "Future" means:

(A) A security future as defined in section 3(a) of the Securities Exchange Act of 1934, 15 U.S.C. § 78a et seq., as it existed on January 1, 2023; and

(B) Any other contract for the sale of a commodity for future delivery;

(7) "Initial property" means an asset or financial interest transferred to a qualified blind trust by, or on behalf of, an interested party or a relative of an interested party, whether or not the asset or financial interest is transferred to the qualified blind trust on or after the date of establishment of the qualified blind trust;

(8) "New member of the General Assembly" means an individual who:

(A) Is not a current member of the General Assembly; but

(B) Commences service as a member of the General Assembly after the effective date of this subchapter;

(9) "Qualified blind trust" means a qualified blind trust that has been approved in writing by the Arkansas Ethics Commission; and

(10) "Security" means the definition given the term in section 3(a) of the Securities Exchange Act of 1934, 15 U.S.C. § 78a et seq., as it existed on January 1, 2023.

21-8-1102. Placement of certain assets in qualified blind trusts by members of General Assembly.

(a) Not later than thirty (30) days after the date on which an individual becomes a new member of the General Assembly, or within thirty (30) days of the effective date of this subchapter, each member of the General Assembly shall submit to the Arkansas Ethics Commission a certification that:

(1) For each covered investment owned by the member of the General Assembly or a spouse or dependent of the member of the General Assembly, the member of the General Assembly or the spouse or dependent of the member of the General Assembly shall:

(A) Divest the covered investment; or

(B) Place the covered investment in a qualified blind trust, including by establishing a qualified blind trust for that purpose, if necessary; or

(2) Neither the member of the General Assembly nor any spouse or dependent of the member of the General Assembly owns a covered investment.

(b)(1) Except as provided in subsection (c) of this section, not later than one hundred twenty (120) days after the effective date of this subchapter, each current member of the General Assembly shall divest, or place in a qualified blind trust each covered investment owned by the member of the General Assembly or a spouse or dependent of the member of the General Assembly.

(2) A qualified blind trust may be established by the member of the General Assembly or a spouse or dependent of the member of the General Assembly to comply with subdivision (b)(1) of this section.

(c) A current member of the General Assembly shall divest a covered investment held by the member of the General Assembly or a spouse or dependent of the member of the General Assembly if:

(A) The member of the General Assembly or the spouse or dependent of the member of the General Assembly is unable to place the covered investment in a qualified blind trust by the date described in this section; and

(B) The member of the General Assembly fails to obtain an extension under subsection (d) of this section.

(d) If a current member of the General Assembly or a spouse or dependent of the member of the General Assembly is unable to place a covered investment in a qualified blind trust by the date described in this section, the member of the General Assembly may request, and the commission may grant, one (1) or more reasonable extensions, subject to the conditions that:

(1) The total period of time covered by all extensions granted to the member of the General Assembly for the covered investment shall not exceed one hundred eighty (180) days; and

(2) The period covered by a single extension shall be not longer than forty-five (45) days.

21-8-1103. Acquisitions during service of certain assets.

(a) Except as provided under subsection (b) of this section, effective beginning on effective date of this subchapter, a member of the General Assembly and a spouse or dependent of the member of the General Assembly shall not acquire a covered investment.

(b) A member of the General Assembly or a spouse or dependent of a member of the General Assembly who inherits a covered investment shall divest or place the covered investment in a qualified blind trust by not later than one hundred twenty (120) days after the date on which the covered investment is inherited.

(c) If a member of the General Assembly or a spouse or dependent of the member of the General Assembly is unable to place a covered investment in a qualified blind trust by the date described in this section, the member of the General Assembly may request, and the Arkansas Ethics Commission may grant, one (1) or more reasonable extensions subject to the conditions that:

(1) The total period of time covered by all extensions granted to the member of the General Assembly for the covered investment shall not exceed one hundred eighty (180) days; and

(2) The period covered by a single extension shall be not be longer than forty-five (45) days.

21-8-1104. Mingling of Assets.

A spouse or dependent of a member of the General Assembly may place a covered investment in a qualified blind trust established by the member of the General Assembly under this subchapter.

21-8-1105. Separation from service.

During the period beginning on the date on which an individual becomes a member of the General Assembly and ending on the date that is one hundred eighty (180) days after the date on which the individual ceases to serve as a member of the General Assembly, the member of the General Assembly and a spouse or dependent of the member of the General Assembly shall not:

(1) Dissolve any qualified blind trust in which a covered

investment has been placed under this subchapter; or

(2) Except as provided in this subchapter, otherwise control a covered investment.

21-8-1106. Arkansas Ethics Commission – Reporting requirements.

(a) The Arkansas Ethics Commission shall make available on the commission's public website:

(1) A copy of each:

(A) Certification submitted to the commission under this subchapter;

(B) Qualified blind trust agreement of each member of the General Assembly;

(C) Notice and other documentation submitted to the commission under this subchapter; and

(D) Notice, rule, and other documentation issued or received by the commission;

(2) A schedule of all assets placed in a qualified blind trust by each member of the General Assembly and interested party; and

(3) A description of each extension granted, and each civil penalty imposed, under this subchapter.

(b) Each trustee of a qualified blind trust established by a member of the General Assembly shall submit to the member of the General Assembly and the commission a written notice in any case in which the trustee:

(1) Learns that:

(A) An interested party has obtained knowledge of any trust property other than the initial property of the qualified blind trust; or

(B) The value of the initial property of the qualified blind trust is less than one thousand dollars (\$1,000); or

(2) Divests any initial property of the qualified blind trust.

(c) Each member of the General Assembly who is a beneficiary of a qualified blind trust shall submit to the commission a:

(1) Copy of the executed qualified blind trust agreement by not later than thirty (30) days after the date of execution;

(B) List of each asset and each financial interest transferred to the qualified blind trust by an interested party by not later than thirty

(30) days after the date of the transfer;

(C) Copy of each notice submitted to the member of the General Assembly under this subchapter by not later than thirty (30) days after the date of receipt;

(D) A written notice that an interested party has obtained knowledge of any holding of the qualified blind trust by not later than the date that is thirty (30) days after the date on which the Member of the General Assembly discovered that the knowledge had been obtained; and

(E) A written notice of dissolution of the qualified blind trust by not later than thirty (30) days after the date of dissolution.

21-8-1107. Arkansas Ethics Commission – Authorization – Enforcement.

(a) The Arkansas Ethics Commission may:

(1) Impose and collect civil penalties under this subchapter;

(2) Establish procedures and standard forms to implement this subchapter;

(3) Issue rules under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., to implement this subchapter; and

(4) Publish on a website all documents and communications described in this subchapter.

(b) The commission shall provide a written notice to any Member of the General Assembly, including notice of the potential for civil penalties, who fails to:

(1) Submit a certification under this subchapter by the date on which the certification is required to be submitted; or

(2) Place one (1) or more covered investments owned by the member of the General Assembly or a spouse or dependent of the member of the General Assembly in a qualified blind trust in accordance with this subchapter by the applicable deadline, subject to any extension.

(c)(1) The commission shall impose a civil penalty on a member of the General Assembly to whom a notice is provided under subsection (b) of this section:

(A) On the date that is thirty (30) days after the date of provision of the notice; and

(B) Not less frequently than one (1) time every thirty (30) days thereafter.

(2) The amount of each civil penalty imposed on a member of the General Assembly under subdivision (c)(1) of this section shall be equal to the monthly equivalent of the annual rate of pay payable to the member of the General Assembly for each violation of this subchapter.

SECTION 3. DO NOT CODIFY. Rules.

(a) When adopting the initial rules required under this act, the Arkansas Ethics Commission shall file the final rules with the Secretary of State for adoption under § 25-15-204(f):

(1) On or before January 1, 2024; or

(2) If approval under § 10-3-309 has not occurred by January 1, 2024, as soon as practicable after approval under § 10-3-309.

(b) The commission shall file the proposed rules with the Legislative Council under § 10-3-309(c) sufficiently in advance of January 1, 2024, so that the Legislative Council may consider the rules for approval before January 1, 2024.