

## 29 Del. C., CHAPTER 10. LEGISLATIVE CONFLICTS OF INTEREST

### Sec.

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### **§ 1001. Findings; purpose.**

(a) The General Assembly hereby declares that public office is a public trust and that any effort to realize personal financial gain through public office other than compensation provided by law is a violation of that trust. In serving the public interest, it is a legislator's right and responsibility to vote upon all questions before the House of which he or she is a member and to participate in the business of the House and its committees, and in doing so, he or she is presumed to be acting in good faith and in the public interest.

(b) The General Assembly also acknowledges that the exercise of legislative rights is subject to limitations provided in article II, § 20 of the Delaware Constitution when personal or private interests conflict with the public interest.

(c) The purpose of this chapter is to define the limitations of article II, § 20 of the Delaware Constitution and to provide for its implementation and enforcement.

### **§ 1002. Restrictions relating to personal or private interest.**

(a) A legislator who has a personal or private interest in any measure or bill pending in the General Assembly shall disclose the fact to the House of which he or she is a member and shall not participate in the debate nor vote thereon; provided, that upon the request of any other member of the House or Senate, as the case may be, a legislator who has such a personal or private interest may nevertheless respond to questions concerning any such measure or bill. A personal or private interest in a measure or bill is an interest which tends to impair a legislator's independence of judgment in the performance of his or her legislative duties with respect to that measure or bill.

(b) A legislator has an interest which tends to impair his or her independence of judgment in the performance of his or her legislative duties with regard to any bill or measure when:

(1) The enactment or defeat of the measure or bill would result in a financial benefit or detriment to accrue to the legislator or a close relative to a greater extent than such benefit or detriment would accrue to others who are members of the same class or group of persons; or

(2) The legislator or a close relative has a financial interest in a private enterprise which enterprise or interest would be affected by a measure or bill to a lesser or greater extent than like enterprises or other interests in the same enterprise; or

(3) A person required to register as a legislative agent pursuant to Chapter 16 of

this title is a close relative of the legislator and that person acts to promote, advocate, influence or oppose the measure or bill.

(c) Disclosure required under subsection (a) of this section shall be made in open session:

(1) Prior to the vote on the measure or bill by any committee of which the legislator is a member; and

(2) Prior to the vote on the measure or bill in the House of which the legislator is a member.

(d) A legislator who violates the provisions of this section shall be subject to such sanction as shall be prescribed by the House of which he or she is a member pursuant to rules adopted under article II, § 9 of the Delaware Constitution.

### **§ 1003. Legislative Ethics Committees.**

(a) The House and the Senate shall each establish an Ethics Committee which shall have the responsibilities assigned in this section with respect to the enforcement of this chapter and such other responsibilities as may be assigned by the House or the Senate as the case may be. Each Ethics Committee may, upon the request of a member, provide a written advisory opinion as to the application of this chapter to a particular situation. Any member who acts in good faith in reliance upon any such written advisory opinion shall not be subject to any disciplinary proceeding by the respective House with respect to the matters covered by the advisory opinion provided there was a full disclosure to the Ethics Committee of all facts necessary for the opinion. All proceedings before an Ethics Committee in connection with an advisory opinion shall be confidential, subject to the following:

(1) The legislator involved may waive the privilege of confidentiality;

(2) The proceedings shall no longer be confidential and may be made public in any subsequent disciplinary proceeding if the legislator acts in disregard of an advisory opinion; and

(3) Each Ethics Committee shall maintain records of its proceedings and advisory opinions which shall be available for reference by the Committee, subsequent Committees and their staff.

(b) Each Committee shall investigate allegations of violations of this chapter by the members of the respective House and shall make recommendations to the respective House with respect thereto. If in the course of any proceeding, advisory or investigative, the Committee shall become aware of any substantial evidence of a violation of any law involving legislative conduct subject to its jurisdiction it shall report the same to the appropriate federal or state authorities.

### **§ 1004. Definitions.**

For the purposes of this chapter:

(1) A "close relative" means a person's parents, spouse, children (natural or adopted) and siblings of the whole and half-blood.

(2) A "private enterprise" means any activity whether conducted for profit or not for profit and includes the ownership of real or personal property; provided, that "private enterprise" does not include any activity of the State, any political subdivision or any agency, authority or instrumentality thereof.

(3) A person has a "financial interest" in a private enterprise if he or she:

a. Has a legal or equitable ownership interest in the enterprise of more than 10% (1% in the case of a corporation whose stock is regularly traded on an established securities market); or

b. Is associated with the enterprise and received from the enterprise during the last calendar year or might reasonably be expected to receive from the enterprise during the current or the next calendar year income in excess of \$5,000 for services as an employee, officer, director, trustee or independent contractor; or

c. Is a creditor of a private enterprise in an amount equal to 10% or more of the debt of that enterprise (1% or more in the case of a corporation whose securities are regularly traded on an established securities market).

(4) A "person" means an individual, partnership, corporation, trust, joint venture and any other association of individuals or entities.