

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

A Bill

HOUSE BILL 1711

5 By: Representative A. Collins
6

For An Act To Be Entitled

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

Subtitle

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18 TO CREATE THE STOP TRADING ON
19 CONFIDENTIAL KNOWLEDGE ACT; BAN STOCK
20 TRADING BY MEMBERS OF THE GENERAL
21 ASSEMBLY; AND TO AMEND THE AUTHORITY OF
22 THE ARKANSAS ETHICS COMMISSION.
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
26

27 SECTION 1. DO NOT CODIFY. Title.

28 This act shall be known and may be cited as the "Stop Trading on
29 Confidential Knowledge Act".
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31 SECTION 2. Arkansas Code Title 21, Chapter 8, is amended to add an
32 additional subchapter to read as follows:

33 Subchapter 11 – Certain Assets of Members of the General Assembly, Spouses,
34 and Dependents
35

36 21-8-1101. Definitions.



1 As used in this subchapter:

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

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

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

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

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

15 (i) An investment fund;

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

17 (iii) An employee benefit plan; or

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

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

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

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

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

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

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

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

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

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

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

8 (6) "Future" means:

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

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

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

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

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

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

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

26 (10) "Security" means the definition given the term in section
27 3(a) of the Securities Exchange Act of 1934, 15 U.S.C. § 78a et seq., as it
28 existed on January 1, 2023.

29
30 21-8-1102. Placement of certain assets in qualified blind trusts by
31 members of General Assembly.

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

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

5 (A) Divest the covered investment; or

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

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

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

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

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

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

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

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

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

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

3
4 21-8-1103. Acquisitions during service of certain assets.

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

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

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

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

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

24
25 21-8-1104. Mingling of Assets.

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

29
30 21-8-1105. Separation from service.

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

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

1 investment has been placed under this subchapter; or

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

4
 5 21-8-1106. Arkansas Ethics Commission – Reporting requirements.

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

8 (1) A copy of each:

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

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

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

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

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

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

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

24 (1) Learns that:

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

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

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

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

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

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

1 (30) days after the date of the transfer;

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

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

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

11
12 21-8-1107. Arkansas Ethics Commission – Authorization – Enforcement.

13 (a) The Arkansas Ethics Commission may:

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

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

17 (3) Issue rules under the Arkansas Administrative Procedure Act,
18 § 25-15-201 et seq., to implement this subchapter; and

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

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

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

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

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

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

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

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

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6 SECTION 3. DO NOT CODIFY. Rules.

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

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

11 (2) If approval under § 10-3-309 has not occurred by January 1,
12 2024, as soon as practicable after approval under § 10-3-309.

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