

**LOCAL LAWS
OF
THE CITY OF NEW YORK
FOR THE YEAR 1990**

No. 9

Introduced by Council Member Gerges (by request of the Mayor). (Passed under a Message of Necessity from the Mayor.)

A LOCAL LAW

To amend the administrative code of the City of New York, in relation to annual disclosure of financial interests.

Be it enacted by the Council as follows:

Section one. The introductory sentence of subdivision a of section 12-110 of the administrative code of the city of New York is amended to read as follows:

The following persons shall file with the [city clerk] *conflicts of interest board* a report disclosing certain financial interests as hereinafter provided:

§2. Subparagraph (a) of paragraph 3 of subdivision a of section 12-110 of such code, as amended by local law number 18 for the year 1987, is amended to read as follows:

(a) (1) Each agency head, deputy agency head, assistant agency head, member of any board or commission, other than a member of a board or a commission who serves without compensation, each city employee who is a member of the management pay plan or whose salary on April thirtieth of each year is [forty nine] *fifty-seven* thousand *six hundred and fifty* dollars a year or more, and (2) each city employee whose duties directly involve the negotiation, authorization or approval of contracts, leases, franchises, revocable consents, concessions and applications for zoning changes, variances and special permits, without regard to civil service status, membership in the management pay plan or salary shall file such report not later than May first of each year. The commissioner of investigation, in consultation with each agency head, shall determine which persons occupy positions that are described in clause (2) of this subparagraph, and shall inform such employees of the obligation to report no later than December thirty-first of each year. Each officer and employee described in this paragraph shall, following separation from service, file such report for the portion of the last calendar year in which he or she served in his or her position within sixty days of his or her separation from service or on the May first next succeeding, whichever is earlier. Each such officer and employee who leaves service prior to May first shall also file a report for the previous calendar year on May first if such person met the criteria of this subparagraph on his or her last day of service.

§3. Paragraph 4 of subdivision a of section 12-110 of such code, as added by local law number 16 for the year 1986, is amended to read as follows:

4. Each agency shall file with the [city clerk] *conflicts of interest board* prior to the date required for the filing of reports a list of persons obliged to report pursuant to this subdivision. Any person required to file who has not so filed at the end of one week after the date required for filing shall be subject to a fine of one hundred dollars. In addition, two weeks after the date required for filing, the [city clerk] *conflicts of interest board* shall inform the appropriate agency

and the commissioner of investigation of the failure to file of any such person.

§4. Subdivision c of section 12-110 of such code is amended to read as follows:

c. Information filed pursuant to the provisions of this section shall be maintained by the [city clerk] *conflicts of interest board* and shall be made available for public inspections subject to the provisions of subdivisions d, e and f of this section.

§5. Subdivision d of section 12-110 of such code, paragraphs 1 and 2 as amended by local law number 16 for the year 1988, is amended to read as follows:

d. 1. Any person required to file a report pursuant to this section may, at the time the report is filed or at any time thereafter, except when a request for inspection is pending, submit a request to the [board of ethics] *conflicts of interest board*, in such form as the board shall require, to withhold any item disclosed therein from public inspection on the ground that the inspection of such item by the public would constitute an unwarranted invasion of his or her privacy. Such request shall be in writing and shall be in such form as the [board of ethics] *conflicts of interest board* shall prescribe and shall set forth the reason such person believes the item should not be disclosed. The [city clerk] *conflicts of interest board*, upon receiving a written request by a member of the public, on such form as the board [of ethics] shall prescribe, to examine an item for which a written request to withhold information on the ground of privacy was submitted pursuant to this paragraph shall refer such request to the [board of ethics] *conflicts of interest board* and notify the person who filed the report that a request for inspection has been made. Whenever a request is made by a member of the public to examine a report, whether or not a request for privacy protection has been made, the [city clerk] board shall so notify the person who filed the report, except that no such notification shall be required if the request to examine the report is made by the inspector general of the agency in which the person who filed the report is employed or the commissioner of investigation.

2. The [board of ethics] *conflicts of interest board* shall evaluate such claim and any such item shall be withheld from public inspection upon a finding by the board that the inspection of such item by the public would constitute an unwarranted invasion of privacy in making this determination, the board shall consider the following factors:

(a) whether the item is of a highly personal nature;

(b) whether the item in any way relates to the duties of the positions held by such person;

(c) whether the [time] *item* involves an actual or potential conflict of interest.

Any information regarding any financial interests of the spouse of a person filing in which the person filing has no financial interest shall be withheld from public inspection as an unwarranted invasion of privacy unless the [board of ethics] *conflicts of interest board* determines that such information involves an actual or potential conflict of interest on the part of the person filing.

3. The [board of ethics] *conflicts of interest board* shall establish procedures for the consideration of requests for withholding information on the ground of privacy. Such procedures shall include provision for the person who filed the information to appear in person to set forth, or submit a written statement setting forth, the reasons why the information should be withheld from public inspection.

4. The determination of the [board of ethics] *conflicts of interest board* shall be in writing and shall set forth the reasons for such determination. [The board shall forward its determination to the city clerk]. Except for those items, if any, that the board [of ethics] finds would constitute an unwarranted invasion of privacy if disclosed, the [city clerk] *board* shall make available to the person making such request the information requested.

§6. Subdivisions e and f of section 12-110 of such code are amended to read respectively as follows:

e. Reports filed pursuant to this section shall be retained by the [city clerk] *conflicts of interest board* for a period of two years following the termination of the public employment of the person who filed the report. In the case of candidates for office who have filed reports pursuant to this section and who were not elected, the reports shall be retained by the [city clerk] *board* for a period of two years following the day of an election on which the candidates were defeated. Such reports shall thereafter be destroyed by the [city clerk] *board* unless a request for public disclosure of an item [continued] *contained* in such report is pending. In lieu of the destruction of such reports, the [city clerk] *board*, in [his or her] *its* discretion, may establish procedures providing for their return to the persons who filed them.

f. For the purposes of this section, the [board of ethics] *conflicts of interest board* shall mean the [public members of the board of ethics] *conflicts of interest board* appointed pursuant to section twenty-six hundred *two* of the charter. [Neither the corporation counsel nor the director of personnel shall participate in any determination made pursuant to this section.]

§7. Subdivision g of section 12-110 of such code, as added by local law number 16 for the year 1986, is amended to read as follows:

g. Any amendments and changes to the report made after filing shall be made on a separate form to be provided by the [city clerk] *conflicts of interest board* and attached to the report. Said form shall contain the corresponding page and item numbers of the report, the amendment, signature of the person making such amendment and the initials of the [city clerk] *chair of the board* or his or her designee. Amendments shall be made only by the person who originally filed such report.

§8. This local law shall take effect immediately.

THE CITY OF NEW YORK, OFFICE OF THE CITY CLERK, S.S.:

I hereby certify that the foregoing is a true copy of a local law of The City of New York, passed by the Council on April 5, 1990, and approved by the Mayor on April 19, 1990.

CARLOS CUEVAS, City Clerk, Clerk of the Council.

CERTIFICATION PURSUANT TO MUNICIPAL HOME RULE LAW §27

Pursuant to the provisions of Municipal Home Rule Law §27, I hereby certify that the enclosed local law (Local Law 9 of 1990, Council Int. No. 394-A) contains the correct text and:

Received the following vote at the meeting of the New York City Council on April 5, 1990;
34 for, 0 against

Was approved by the Mayor on April 19, 1990.

Was returned to the City Clerk on April 23, 1990.

JEFFREY D. FRIEDLANDER, Acting Corporation Counsel