

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-55, title I, §1003(b), Aug. 2, 2005, 119 Stat. 572, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to reports filed under the Ethics in Government Act of 1978 [Pub. L. 95-521] for calendar year 2005 and each succeeding calendar year.”

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-194 effective Jan. 1, 1991, see section 204 of Pub. L. 101-194, set out as a note under section 101 of this Appendix.

IMPLEMENTATION OF PTR REQUIREMENTS UNDER STOCK ACT

Pub. L. 112-173, §2, Aug. 16, 2012, 126 Stat. 1310, as amended by Pub. L. 112-178, §3(a), Sept. 28, 2012, 126 Stat. 1409, provided that: “Effective January 1, 2013, for purposes of implementing subsection (l) of section 103 of the Ethics in Government Act of 1978 [5 U.S.C. App. 103(l)] (as added by section 6 of the STOCK Act, Public Law 112-105), section 102(e) of such Act (5 U.S.C. App. 102(e)) shall apply as if the report under such subsection (l) were a report under section 101 of such Act (5 U.S.C. App. 101) but only with respect to the transaction information required under such subsection (l).”

[Pub. L. 112-178, §3(b), Sept. 28, 2012, 126 Stat. 1409, provided that:

“(1) EFFECTIVE DATE.—The amendments made by subsection (a) [amending section 2 of Pub. L. 112-173, set out above] shall take effect on January 1, 2013.

“(2) RULE OF CONSTRUCTION.—Before January 1, 2013, the amendments made by subsection (a) shall not affect the applicability of section 2 of the Act entitled ‘An Act to prevent harm to the national security or endangering the military officers and civilian employees to whom internet publication of certain information applies, and for other purposes’, approved August 16, 2012 [Pub. L. 112-173] (5 U.S.C. App. 103 note), as in effect on the day before the effective date under paragraph (1).”

[Pub. L. 112-178, §3(c), Sept. 28, 2012, 126 Stat. 1410, provided that: “Nothing in the amendments made by subsection (a) [amending section 2 of Pub. L. 112-173, set out above] shall be construed as affecting any requirement with respect to the House of Representatives or the executive branch in effect before January 1, 2013, with respect to the inclusion of transaction information for a report under section 103(l) of the Ethics in Government Act of 1978 (5 U.S.C. App. 103(l)).”

[Pub. L. 112-178, §3(d), Sept. 28, 2012, 126 Stat. 1410, provided that: “Nothing in this section [enacting and amending provisions set out as notes above] or the amendments made [by] this section shall be construed as affecting the requirement that took effect with respect to the Senate on July 3, 2012, which mandates the inclusion of transaction information for spouses and dependent children for a report under section 103(l) of the Ethics in Government Act of 1978 (5 U.S.C. App. 103(l)).”

TRANSACTION REPORTING REQUIREMENTS

Pub. L. 112-105, §14, Apr. 4, 2012, 126 Stat. 300, provided that: “The transaction reporting requirements established by section 103(l) of the Ethics in Government Act of 1978 [5 U.S.C. App. 103(l)], as added by section 6 of this Act, shall not be construed to apply to a widely held investment fund (whether such fund is a mutual fund, regulated investment company, pension or deferred compensation plan, or other investment fund), if—

“(1)(A) the fund is publicly traded; or

“(B) the assets of the fund are widely diversified; and

“(2) the reporting individual neither exercises control over nor has the ability to exercise control over the financial interests held by the fund.”

§ 104. Failure to file or filing false reports

(a)(1) The Attorney General may bring a civil action in any appropriate United States district

court against any individual who knowingly and willfully falsifies or who knowingly and willfully fails to file or report any information that such individual is required to report pursuant to section 102. The court in which such action is brought may assess against such individual a civil penalty in any amount, not to exceed \$50,000.

(2)(A) It shall be unlawful for any person to knowingly and willfully—

(i) falsify any information that such person is required to report under section 102; and

(ii) fail to file or report any information that such person is required to report under section 102.

(B) Any person who—

(i) violates subparagraph (A)(i) shall be fined under title 18, United States Code, imprisoned for not more than 1 year, or both; and

(ii) violates subparagraph (A)(ii) shall be fined under title 18, United States Code.

(b) The head of each agency, each Secretary concerned, the Director of the Office of Government Ethics, each congressional ethics committee, or the Judicial Conference, as the case may be, shall refer to the Attorney General the name of any individual which such official or committee has reasonable cause to believe has willfully failed to file a report or has willfully falsified or willfully failed to file information required to be reported. Whenever the Judicial Conference refers a name to the Attorney General under this subsection, the Judicial Conference also shall notify the judicial council of the circuit in which the named individual serves of the referral.

(c) The President, the Vice President, the Secretary concerned, the head of each agency, the Office of Personnel Management, a congressional ethics committee, and the Judicial Conference, may take any appropriate personnel or other action in accordance with applicable law or regulation against any individual failing to file a report or falsifying or failing to report information required to be reported.

(d)(1) Any individual who files a report required to be filed under this title more than 30 days after the later of—

(A) the date such report is required to be filed pursuant to the provisions of this title and the rules and regulations promulgated thereunder; or

(B) if a filing extension is granted to such individual under section 101(g), the last day of the filing extension period,

shall, at the direction of and pursuant to regulations issued by the supervising ethics office, pay a filing fee of \$200. All such fees shall be deposited in the miscellaneous receipts of the Treasury. The authority under this paragraph to direct the payment of a filing fee may be delegated by the supervising ethics office in the executive branch to other agencies in the executive branch.¹

(2) The supervising ethics office may waive the filing fee under this subsection in extraordinary circumstances.

(Pub. L. 95-521, title I, §104, Oct. 26, 1978, 92 Stat. 1832; Pub. L. 96-19, §8(a), June 13, 1979, 93 Stat.

¹ So in original.

41; Pub. L. 101-194, title II, §202, Nov. 30, 1989, 103 Stat. 1737; Pub. L. 101-280, §3(1), (5), May 4, 1990, 104 Stat. 152, 154; Pub. L. 101-650, title IV, §405, Dec. 1, 1990, 104 Stat. 5124; Pub. L. 110-81, title VII, §702, Sept. 14, 2007, 121 Stat. 775.)

CODIFICATION

Section was formerly classified to section 704 of Title 2, The Congress.

AMENDMENTS

2007—Subsec. (a). Pub. L. 110-81 designated existing provisions as par. (1), substituted “\$50,000” for “\$10,000”, and added par. (2).

1990—Subsec. (b). Pub. L. 101-650 inserted at end “Whenever the Judicial Conference refers a name to the Attorney General under this subsection, the Judicial Conference also shall notify the judicial council of the circuit in which the named individual serves of the referral.”

Pub. L. 101-280, §3(5)(A), substituted “Judicial Conference” for “Chairman of the Judicial Conference”.

Pub. L. 101-280, §3(1), struck out “of the United States” after “Judicial Conference”.

Subsec. (c). Pub. L. 101-280, §3(1), struck out “of the United States” after “Judicial Conference”.

Subsec. (d)(1). Pub. L. 101-280, §3(5)(B), substituted closing provisions for former closing provisions which read “shall pay a filing fee of \$200 to the miscellaneous receipts of the General Treasury”.

1989—Pub. L. 101-194 amended section generally, substituting provisions relating to failure to file or filing false reports for provisions relating to accessibility of reports. See section 105 of this Appendix.

1979—Subsec. (c). Pub. L. 96-19 designated existing provisions as par. (2) and added par. (1).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-650 effective 90 days after Dec. 1, 1990, see section 407 of Pub. L. 101-650, set out as a note under section 332 of Title 28, Judiciary and Judicial Procedure.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-194 effective Jan. 1, 1991, see section 204 of Pub. L. 101-194, set out as a note under section 101 of this Appendix.

§ 105. Custody of and public access to reports

(a) Each agency, each supervising ethics office in the executive or judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall make available to the public, in accordance with subsection (b), each report filed under this title with such agency or office or with the Clerk or the Secretary of the Senate, except that—

(1) this section does not require public availability of a report filed by any individual in the Office of the Director of National Intelligence, the Central Intelligence Agency, the Defense Intelligence Agency, the National Geospatial-Intelligence Agency, or the National Security Agency, or any individual engaged in intelligence activities in any agency of the United States, if the President finds or has found that, due to the nature of the office or position occupied by such individual, public disclosure of such report would, be¹ revealing the identity of the individual or other sensitive information, compromise the national interest of the United States; and such indi-

viduals may be authorized, notwithstanding section 104(a), to file such additional reports as are necessary to protect their identity from public disclosure if the President first finds or has found that such filing is necessary in the national interest; and

(2) any report filed by an independent counsel whose identity has not been disclosed by the division of the court under chapter 40 of title 28, United States Code, and any report filed by any person appointed by that independent counsel under such chapter, shall not be made available to the public under this title.

(b)(1) Except as provided in the second sentence of this subsection, each agency, each supervising ethics office in the executive or judicial branch, the Clerk of the House of Representatives, and the Secretary of the Senate shall, within thirty days after any report is received under this title by such agency or office or by the Clerk or the Secretary of the Senate, as the case may be,² permit inspection of such report by or furnish a copy of such report to any person requesting such inspection or copy. With respect to any report required to be filed by May 15 of any year, such report shall be made available for public inspection within 30 calendar days after May 15 of such year or within 30 days of the date of filing of such a report for which an extension is granted pursuant to section 101(g). The agency, office, Clerk, or Secretary of the Senate, as the case may be³ may require a reasonable fee to be paid in any amount which is found necessary to recover the cost of reproduction or mailing of such report excluding any salary of any employee involved in such reproduction or mailing. A copy of such report may be furnished without charge or at a reduced charge if it is determined that waiver or reduction of the fee is in the public interest.

(2) Notwithstanding paragraph (1), a report may not be made available under this section to any person nor may any copy thereof be provided under this section to any person except upon a written application by such person stating—

(A) that person’s name, occupation and address;

(B) the name and address of any other person or organization on whose behalf the inspection or copy is requested; and

(C) that such person is aware of the prohibitions on the obtaining or use of the report.

Any such application shall be made available to the public throughout the period during which the report is made available to the public.

(3)(A) This section does not require the immediate and unconditional availability of reports filed by an individual described in section 109(8) or 109(10) of this Act if a finding is made by the Judicial Conference, in consultation with United States Marshals Service, that revealing personal and sensitive information could endanger that individual or a family member of that individual.

(B) A report may be redacted pursuant to this paragraph only—

¹ So in original.

² So in original. Probably should be followed by a comma.

³ So in original. Probably should be “by”.