

CHAPTER 145

AN ACT concerning forfeiture of public office, amending N.J.S.2C:51-2 and repealing section 17-17 of P.L.1950, c. 210.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. N.J.S.2C:51-2 is amended to read as follows:

Forfeiture of public office.

2C:51-2. Forfeiture of Public Office. a. A person holding any public office, position, or employment, elective or appointive, under the government of this State or any agency or political subdivision thereof, who is convicted of an offense shall forfeit such office or position if:

(1) He is convicted under the laws of this State of an offense involving dishonesty or of a crime of the third degree or above or under the laws of another state or of the United States of an offense or a crime which, if committed in this State, would be such an offense or crime;

(2) He is convicted of an offense involving or touching such office, position or employment;

or

(3) The Constitution so provides.

b. A court of this State shall enter an order of forfeiture pursuant to subsection a.:

(1) Immediately upon a finding of guilt by the trier of fact or a plea of guilty entered in any court of this State unless the court, for good cause shown, orders a stay of such forfeiture pending a hearing on the merits at the time of sentencing; or

(2) Upon application of the county prosecutor or the Attorney General, when the forfeiture is based upon a conviction of an offense under the laws of another state or of the United States. An order of forfeiture pursuant to this paragraph shall be deemed to have taken effect on the date the person was found guilty by the trier of fact or pled guilty to the offense.

c. No court shall grant a stay of an order of forfeiture pending appeal of a conviction or forfeiture order unless the court is clearly convinced that there is a substantial likelihood of success on the merits. If the conviction be reversed or the order of forfeiture be overturned, he shall be restored, if feasible, to his office, position or employment with all the rights, emoluments and salary thereof from the date of forfeiture.

Any official action taken by the convicted person on or after the date as of which a forfeiture of the person's office shall take effect shall, during a period of 60 days following the date on which an order of forfeiture shall have been issued hereunder, be voidable by the person's successor in office or, if the office of the person was that of member of the governing body of a county, municipality or independent authority, by that governing body.

d. In addition to the punishment prescribed for the offense, and the forfeiture set forth in subsection a. of N.J.S.2C:51-2, any person convicted of an offense involving or touching on his public office, position or employment shall be forever disqualified from holding any office or position of honor, trust or profit under this State or any of its administrative or political subdivisions.

e. Any forfeiture or disqualification under subsection a., b. or d. which is based upon a conviction of a disorderly persons or petty disorderly persons offense may be waived by the court upon application of the county prosecutor or the Attorney General and for good cause shown.

f. Except as may otherwise be ordered by the Attorney General as the public need may require, any person convicted of an offense under section 2C:27-2, 2C:27-4, 2C:27-6, 2C:27-7, 2C:29-4, 2C:30-2, or 2C:30-3 of this Title shall be ineligible, either directly or indirectly, to submit a bid, enter into any contract, or to conduct any business with any board, agency, authority, department, commission, public corporation, or other body of this State, of this or one or more other states, or of one or more political subdivisions of this State for a period of, but not more than, 10 years from the date of conviction for a crime of the second degree, or five years from the date of conviction for a crime of the third degree. It is the purpose of this subsection to bar any individual convicted of any of the above enumerated offenses and any business, including any corporation, partnership, association or proprietorship in which such individual is a principal, or with respect to which such individual owns, directly or indirectly, or controls 5% or more of the stock or other equity interest of such business, from conducting business with public entities.

The State Treasurer shall keep and maintain a list of all corporations barred from conducting such business pursuant to this section.

g. In any case in which the issue of forfeiture is not raised in a court of this State at the time of a finding of guilt, entry of guilty plea or sentencing, a forfeiture of public office, position or employment required by this section may be ordered by a court of this State upon application of the county prosecutor or the Attorney General or upon application of the public officer or public entity having authority to remove the person convicted from his public office, position or employment. The fact that a court has declined to order forfeiture shall not preclude the public officer or public entity having authority to remove the person convicted from seeking to remove or suspend the person from his office, position or employment on the ground that the conduct giving rise to the conviction demonstrates that the person is unfit to hold the office, position or employment.

Repealer.

2. Section 17-17 of P.L.1950, c.210 (C.40:69A-166) is hereby repealed.

C.2C:51-2.1 Applicability of act.

3. This act shall apply as follows:

a. Any person who forfeited or was disqualified from holding any public office, position, or employment, elective or appointive, under the government of this State or any agency or political subdivision thereof, by a court of competent jurisdiction, prior to the effective date of this act shall continue to be disqualified or continue to forfeit such office, position or employment.

b. Any person holding any public office, position, or employment, elective or appointive, under the government of this State or any agency or political subdivision thereof, on the effective date of this act, shall be subject to disqualification or forfeiture of that public office, position, or employment only pursuant to N.J.S.2C:51-2 and not pursuant to a statute other than the criminal code.

4. This act shall take effect immediately.

Approved August 8, 2003.