

Municipal Conflict Of Interest Act **What You Need To Know**

Ontario's *Municipal Conflict of Interest Act* came into effect on March 1, 1983. It replaced conflict legislation originally passed in 1972. The *Act* requires local government representatives to disclose pecuniary (i.e. financial) interests and to abstain from decision-making on matters in which they have such interests.

Application:

Members of the following local government bodies are covered by the *Act*:

- municipal councils
- school boards
- police services boards
- committees of adjustment
- other local boards defined in the *Act*, such as public library boards, conservation
- authorities and boards of health.

Three Pecuniary (Financial) Interests:

Member's pecuniary interests include:

- Direct Interest
- Indirect Interest
- Deemed (*i.e.* family) Interest

Members Deemed (Family) Interest:

A Member's deemed or family interest includes the interest, direct and indirect of the Member's:

- spouse
- parents
- children (regardless of age)

This only applies if the Member knows about the interest. Other relatives are not covered.

Exempt Interests:

Council and local board Members are not required to disclose an interest if the interest is exempted by the *Act*. There are nine specific exemptions and the following two general exemptions:

- a pecuniary interest which is in common with electors generally; and
- a pecuniary interest which is so remote or insignificant that it cannot reasonably be regarded as likely to influence the Member.

Disclosure Of Pecuniary Interest:

At least five legal responsibilities arise when the Member has a pecuniary interest in a matter under consideration. A Member shall:

- disclose the general nature of the interest before any discussion occurs

- not participate in discussions
- not attempt to influence
- not vote
- if the meeting is closed to the public – leave the meeting.

Record Of Pecuniary Interest:

The municipal Clerk or board Secretary must record a Member's disclosure in the minutes of the meeting.

If the Member is absent from the meeting, the Member must follow this procedure at the first meeting that the Member attends.

Enforcement:

The right and responsibility to make an allegation that a Member has contravened the *Act* lies with an elector. An elector alleging that a breach has occurred may apply to a Judge of the Superior Court of Justice by an originating Notice of Motion. The Member will then have the right to reply to this application.

Penalties:

If the Judge determines that a breach has occurred, the Judge is required to declare the Member's seat vacant. The Judge may also disqualify the Member from holding local public office for a period of up to seven years and may require a Member to make restitution. However, the Member cannot be suspended under this *Act*.

Savings Provisions:

Where a Judge determines that the contravention was committed by reason of inadvertence or an error in judgment, the Member is not subject to any penalty.

Insurance:

Insurance to reimburse Members for actions under the *Act* is available in two forms. A municipality or local board may provide coverage to reimburse Members that are found to have *not* contravened the *Act*.

As an individual, a Member may purchase insurance to reimburse themselves if they are found to have breached the *Act* but are not removed from office.

Quorum:

If, by operation of this *Act*, the number of remaining Members does not constitute a quorum, the remaining Members shall be deemed to constitute a quorum - provided the number is not less than two Members.

Where only one Member is not prevented from participating at a meeting, the council or local board may apply to a Judge for an Order authorizing them to act subject to any conditions the Judge considers appropriate.