

CONTRACTS: VIRGINIA PUBLIC PROCUREMENT ACT.

Definition of "immediate family" in Act includes employee's spouse, children, parents, brothers and sisters who do not reside in same household as employee; phrase "any other person" in definition refers to individuals other than specifically listed relations living in employee's household. Interpretation furthers legislative goal of avoiding appearance of impropriety in public procurement transactions.

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You ask whether the definition of the term "immediate family" in § 1173 of the *Code of Virginia*, a portion of the Virginia Public Procurement Act¹ (the "Act"), includes brothers and sisters who do not reside in the same household as the employee.²

The overriding goal of statutory interpretation is to discern and give effect to the intent of the legislature.³ "The ascertainment of legislative intention involves appraisal of the subject matter, purposes, objects and effects of the statute, in addition to its express terms."⁴ Article 4 of the Act prescribes ethical requirements of public employees in public procurement transactions, and includes provisions relating to certain actions by public employees that may have an effect on members of their immediate family.⁵

A fundamental rule of statutory construction requires that every part of a statute be presumed to have some effect, and not be treated as meaningless unless absolutely necessary.⁶ The phrase "and any other person" in the definition of the term "immediate family" in § 1173 refers to individuals other than the individuals specifically listed in that definition. Therefore, whether an individual resides in the same household as the public employee is relevant only if the individual is a person other than the specifically listed relations. Brothers and sisters are expressly listed and are therefore part of the public employee's "immediate family," without regard to whether they actually reside in the employee's household. This meaning gives effect to all parts of the definition and furthers the legislative goal of avoiding any appearance of impropriety.⁷

Interpreting the term "immediate family" in § 1173 so that the household limitation applies not only to "any other person," but also to "spouse, children, parents, brothers and sisters," would render the specific listing of those family members superfluous and meaningless, and is therefore an unreasonable interpretation.⁸

While § 1173 certainly may have been phrased differently,⁹ the General Assembly chose statutory language similar to the phraseology used in other conflict-of-interests provisions, and it is presumed that a similar interpretation, giving effect to all parts of the definition, was intended.¹⁰

I am, therefore, of the opinion that the definition of the term "immediate family" contained in § 1173 includes brothers and sisters who do not reside in the same household as the employee.

¹Tit. 11, Ch. 7, §§ 11-35 to -80Tit. 11, Ch. 7, §§ 1135 to 1180.

²Section 1173 provides that throughout Article 4 of the Act, §§ 1172 to 1180, the term "immediate family" shall include "a spouse, children, parents, brothers and sisters, and any other person living in the same household as the employee."

³*Vollin v. Arlington Co. Electoral Bd.*, 216 Va. 674, 222 S.E.2d 793 (1976); *see also* 1992 Op. Va. Att'y Gen. 28, and opinions cited therein.

⁴*Vollin*, 216 Va. at 679, 222 S.E.2d at 797.

⁵See statutes cited *supra* note 2.

⁶*Raven Coal Corp. v. Absher*, 153 Va. 332, 149 S.E. 541 (1929).

⁷See § 1135(G).

⁸See *Raven Coal Corp.*, 153 Va. at 335, 149 S.E. at 542.

⁹I note that the Virginia Procurement Law Study, Final Report, recommended inserting in § 1173 the phrase "regardless of residence" immediately after "sisters" in the definition of "immediate family." *Id.* at 54 (Nov. 1, 1980) (on file with Office of the Secretary of Administration and Finance).

¹⁰See § 1172 (citing State and Local Government Conflict of Interests Act, §§ 2.1639.1 to 2.1639.24; Virginia Governmental Frauds Act, §§ 18.2498.1 to 18.2498.5; Tit. 18.2, Ch. 10, Art. 2, §§ 18.2438 to 18.2445, and Art. 3, §§ 18.2446 to 18.2450); *Bunts Engineering Co. v. Palmer*, 169 Va. 206, 192 S.E. 789 (1937) (acts should be read in light of other statutes relating to same subject matter).