

Chapter 138

(House Bill 230)

AN ACT concerning

Howard County Ethics Law – Clarifications and Enhancements

Ho. Co. 1–10

FOR the purpose of altering provisions of the Howard County ethics law; clarifying a certain definition; making certain persons subject to the Howard County ethics law under certain circumstances; altering provisions governing the preparation of a certain report about the affidavits and disclosures filed by certain persons under the Howard County ethics law; requiring that the summary reports be made available for immediate inspection by the public; and generally relating to the Howard County ethics law.

BY repealing and reenacting, with amendments,

Article – State Government
Section 15–848 and 15–849
Annotated Code of Maryland
(2009 Replacement Volume)

BY repealing and reenacting, without amendments,

Article – State Government
Section 15–850
Annotated Code of Maryland
(2009 Replacement Volume)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That the Laws of Maryland read as follows:

Article – State Government

15–848.

(a) In this Part VII the following words have the meanings indicated.

(b) (1) “Applicant” means an individual or a business entity that is, with regard to the land that is the subject of the application:

(i) a title owner, assignee, or contract purchaser of the land;

(ii) a trustee that has an interest in the land, other than as a trustee described in a mortgage or deed of trust; or

(iii) a holder of a 5% or greater interest in the business entity that has an interest in the land if:

1. the interest holder is involved significantly in directing the affairs of the business entity, including the disposition of the land; or

2. the interest holder is engaged in substantive actions specifically pertaining to land development in Howard County as a regular part of the activity of the business entity.

(2) “Applicant” includes:

(i) any other business entity in which an individual or business entity described in paragraph (1) of this subsection holds a 3% or greater interest; [or]

(ii) an officer or director of a corporation who actually holds title to, or is the contract purchaser or assignee of, the land that is the subject of an application if:

1. the corporation is listed on a national securities exchange and the officer or director owns 5% or more of its stock; or

2. in the case of any other corporation, the officer or director owns any interest in the corporation; **OR**

(III) AS TO AN APPLICATION FOR A ZONING REGULATION, ANY PERSON AUTHORIZED TO SIGN THE APPLICATION.

(3) “Applicant” does not include:

(i) a financial institution that has loaned money or extended financing for the acquisition, development, or construction of improvements on the land that is the subject of an application;

(ii) a municipal or public corporation;

(iii) a public authority;

(iv) a public service company acting within the scope of the Public Utility Companies Article; or

(v) a person who is:

1. less than a full-time employee of a person described in paragraph (1) or paragraph (2) of this subsection; and

2. hired or retained as an accountant, attorney, architect, engineer, land use consultant, economic consultant, real estate agent, real estate broker, traffic consultant, or traffic engineer.

(c) "Application" means:

(1) an application for a zoning map amendment;

(2) an application for a zoning regulation amendment; or

(3) participation in the adoption and approval of a comprehensive zoning plan by appearing at a public hearing, filing a statement in an official record, or engaging in other similar communication to an elected official, where the intent is to change the classification or increase the density of the land of the applicant.

(d) "Business entity" means:

(1) a sole proprietorship;

(2) a corporation;

(3) a general partnership;

(4) a limited partnership;

(5) a limited liability company; or

(6) a joint venture.

(e) "Candidate" means a candidate for election as Howard County Executive or to the Howard County Council who becomes an elected official.

(f) "Contribution" means any payment or transfer of money or property or the incurring of any liability or promise of anything of value to the treasurer of a candidate, a political committee, or a slate.

(g) "Contributor" means an individual or business entity that makes a contribution.

(h) "Elected official" means an individual who serves as Howard County Executive or as a member of the Howard County Council.

(i) (1) "Engaging in business" means entering into any:

(i) sale, purchase, lease, or other transaction involving goods, services, or real property; or

(ii) contract, award, loan, extension of credit, or any other financial transaction.

(2) “Engaging in business” does not include the sale of goods to an individual for the use or consumption of the individual or others for personal, family, or household purposes, as distinguished from industrial, commercial, or agricultural purposes.

(j) “Family member” means the spouse or child of either an applicant or a party of record who has made a contribution with the knowledge and consent of the applicant or party of record.

(k) “Party of record” means an individual or business entity that participates in a map amendment proceeding by the County Council or the zoning board, or who participates in the adoption and approval of a comprehensive zoning plan by appearing at a public hearing, filing a statement in an official record, or engaging in other similar communication to an elected official where the intent is to oppose a change in classification or an increase in density of the land of an applicant.

(l) “Political action committee” means a political committee that is not:

(1) a political party;

(2) a central committee;

(3) a slate; or

(4) a political committee organized and operated by, and solely on behalf of, an individual running for any elective office or a slate.

(m) “Political committee” means a committee, continuing or noncontinuing, specifically created to promote the candidacy of a person running for elective office.

(n) “Slate” means a group, combination, or organization of candidates created under the provisions of the Election Law Article.

(o) (1) “Treasurer” has the meaning provided in § 1–101 of the Election Law Article.

(2) “Treasurer” includes a subtreasurer.

(a) (1) When an application is filed, the applicant shall file an affidavit, under oath, stating whether the applicant:

(i) has made any contribution or contributions having a cumulative value of \$500 or more to the treasurer of a candidate or the treasurer of a political committee during the 48-month period before the application is filed, to the best of the applicant's information, knowledge, and belief; or

(ii) is currently engaging in business with an elected official.

(2) (i) If the applicant or a party of record or a family member has made a contribution or contributions having a cumulative value of \$500 or more during the 48-month period before the application was filed or during the pendency of the application, the applicant or the party of record shall file a disclosure providing the name of the candidate or elected official to whose treasurer or political committee the contribution was made, the amount, and the date of the contribution. However, if the party of record is a community association, this paragraph may not be construed to require the association to poll its members to disclose individual contributions.

(ii) A contribution made between the filing of the application and the disposition of the application shall be disclosed within 5 business days of the contribution.

(3) An applicant who begins engaging in business with an elected official between the filing of the application and the disposition of the application shall file the affidavit at the time of engaging in business with the elected official.

(b) Except as provided in subsection (a)(3) of this section, the affidavit or disclosure shall be filed at least 30 calendar days prior to any consideration of the application by an elected official.

(c) Within 2 weeks after entering a proceeding, a party of record that has made a contribution shall submit a disclosure as described in subsection (a)(2) of this section.

(d) (1) Except as provided in paragraph (2) of this subsection, a contributor and an elected official are subject to the provisions of this Part VII if the contributor makes a contribution to:

(i) the candidate;

(ii) a slate; or

(iii) the candidate's political committee.

(2) The provisions of this Part VII do not apply to a transfer by a political action committee to a candidate or the candidate's continuing political committee.

(e) An affidavit or a disclosure required under this Part VII shall be in a form established by the Howard County Solicitor and approved by the County Council. The completed form shall be filed in the appropriate case file of an application. The disclosure form shall repeat the penalty provision in § 15–850(a) of this Part VII.

(f) A contribution made after the filing of the initial disclosure and before final disposition of the application by the County Council shall be disclosed within 5 business days of the contribution.

(g) In the enforcement of this Part VII, the administrative clerk to the zoning board or the administrator of the County Council, as appropriate, considering an application shall be subject to the authority of the Howard County Ethics Commission and, unless otherwise directed by the Ethics Commission, shall:

- (1) receive filings of affidavits and disclosures;
- (2) maintain filed affidavits and disclosures as public records available for review by the general public during normal business hours;
- (3) report violations to the Howard County Ethics Commission; and
- (4) perform ministerial duties necessary to administer this Part VII.

(h) (1) [At least twice each calendar year] **PROMPTLY ON RECEIPT**, the administrative assistant to the zoning board and the administrator of the County Council shall prepare a summary report compiling all affidavits and disclosures [that have been] filed **UNDER THIS PART VII**.

(2) The summary report shall be a matter of public record and available for **IMMEDIATE** inspection upon written request.

15–850.

(a) (1) Any person who knowingly and willfully violates the provisions of this Part VII is subject to a fine of not more than \$5,000.

(2) If the person is not an individual, each officer and partner who knowingly authorized or participated in the violation is subject to the same penalty specified in paragraph (1) of this subsection.

(b) (1) Any person who is subject to the provisions of this Part VII shall preserve for 3 years from the date of filing the application all accounts, bills, receipts,

books, papers, and documents necessary to complete and substantiate any reports, statements, or records required to be made under this Part VII.

(2) The papers and documents described in paragraph (1) of this subsection shall be available for inspection upon request to the Howard County Ethics Commission, after reasonable notice.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July 1, 2010.

Approved by the Governor, April 13, 2010.