

# HOUSE BILL 612

L1, L5, G2

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By: **Montgomery County Delegation and Prince George's County Delegation**  
Introduced and read first time: February 9, 2011  
Assigned to: Environmental Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Prince George's County – Maryland–National Capital Park and Planning**  
3 **Commission – District Council – Ethical Requirements**

4 **MC/PG 115–11**

5 FOR the purpose of providing that in Prince George's County, for the purpose of  
6 creating a public record, the District Council shall review the actions taken by  
7 the planning board only relative to certain site development plans under certain  
8 circumstances; prohibiting any individual or entity from entering into any  
9 agreement to provide or receive for compensation or anything of value that is  
10 dependent in any manner on an action or decision by the County Council,  
11 District Council, planning board, or any agency or official of the county  
12 government; prohibiting a member of the District Council or an agent or  
13 employee of the County Council or District Council from recommending,  
14 suggesting, or proposing to any applicant for a development project in the  
15 county any specific individual or entity for inclusion in the applicant's project;  
16 prohibiting the County Council or the District Council, or any member of those  
17 councils, from imposing, as a condition of approval of any application for  
18 rezoning, site plan approval, water and sewer system approval, or preliminary  
19 plan of subdivision, a requirement that the applicant provide monetary  
20 payments or anything of value to any specific individual or entity; providing for  
21 the construction of a certain provision of this Act; applying, in Prince George's  
22 County, certain requirements of the State Ethics Law for lobbyists to persons  
23 engaging in certain lobbying or related activities concerning applications or  
24 matters pending before the District Council or planning board; prohibiting, in  
25 Prince George's County, a person engaged on behalf of a certain applicant on a  
26 matter pending before the District Council or planning board from being  
27 compensated on a certain contingency basis; and generally relating to certain  
28 ethical requirements with respect to the Maryland–National Capital Park and  
29 Planning Commission and the District Council in Prince George's County.

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 BY repealing and reenacting, with amendments,  
2 Article 28 – Maryland–National Capital Park and Planning Commission  
3 Section 8–101(b)  
4 Annotated Code of Maryland  
5 (2010 Replacement Volume)

6 BY repealing and reenacting, without amendments,  
7 Article – State Government  
8 Section 15–713, 15–803, 15–806, 15–829(a), (c), (i), (j), and (k), and 15–844(a)  
9 and (d)  
10 Annotated Code of Maryland  
11 (2009 Replacement Volume and 2010 Supplement)

12 BY repealing and reenacting, with amendments,  
13 Article – State Government  
14 Section 15–845  
15 Annotated Code of Maryland  
16 (2009 Replacement Volume and 2010 Supplement)

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

19 **Article 28 – Maryland–National Capital Park and Planning Commission**

20 8–101.

21 (b) (1) In this subsection, the term “zoning classification of agricultural  
22 open space” means a zoning classification in which uses are limited to those  
23 permissible in the agricultural open space portion of an agricultural preservation  
24 development under § 27–445.01 of the Prince George’s County Code (1991 Edition, as  
25 amended).

26 (2) Except as otherwise provided in §§ 8–126 and 8–127 of this  
27 subtitle, each district council, respectively, in accordance with the conditions and  
28 procedures specified in this article, may by ordinance adopt and amend the text of the  
29 zoning ordinance and may by resolution or ordinance adopt and amend the map or  
30 maps accompanying the zoning ordinance text to regulate, in the portion of the  
31 regional district lying within its county, (i) the location, height, bulk, and size of  
32 buildings, other structures, and units therein, building lines, minimum frontages,  
33 depths and areas of lots, and percentages of lots which may be occupied; (ii) the size of  
34 lots, yards, courts, and other open spaces; (iii) the erection of temporary stands and  
35 structures; (iv) the density and distribution of population; (v) the location and uses of  
36 buildings and structures and units therein for trade, industry, residence, recreation,  
37 agriculture, public activities, and other purposes; and (vi) the uses of land, including  
38 surface, subsurface, and air rights therein, for building, trade, industry, residence,  
39 recreation, agriculture, forestry, or other purposes.

1           (3)   (i)    The powers granted by this subsection include the power to  
2 establish a program for the transfer of development rights.

3                   (ii)   The County Council for Prince George's County, sitting as a  
4 district council, may, by ordinance, create a program for the purchase of development  
5 rights under Title 5, Subtitle 5 of this article.

6           (4)   No regulation may prohibit the use of any land by the owner of  
7 such land or the holder of any easement or right therein or the owner's or holder's  
8 tenant for farming, other agricultural uses exclusively, or within Prince George's  
9 County, for the purposes of storing natural or artificial gas at a level below 500 feet  
10 from the surface of the earth.

11           (5)   The County Council for Montgomery County, sitting as a district  
12 council, may not receive an application for a zoning map amendment upon the same  
13 land which has been the subject of a previous zoning application for map amendment  
14 filed after June 1, 1965, for the same zoning classification upon which there was a  
15 decision on the merits unless 36 months have expired since the filing of the application  
16 for the previous zoning map amendment upon which there was a decision on the  
17 merits. Further, an application for a zoning map amendment filed with the County  
18 Council for Montgomery County, sitting as a district council, shall set forth the names  
19 of all persons having a substantial interest in the subject property of the application,  
20 such substantial interest to include all those persons with a share in such property  
21 amounting to five percent or more whether held in an individual or corporate capacity  
22 of the full cash value of such property exclusive of all mortgages, deeds of trust, liens  
23 and encumbrances. It shall also set forth the names of all contract purchasers and all  
24 those persons holding a mortgage, a deed of trust, or an option to purchase the  
25 property. However, the foregoing time limitation and name requirement do not apply  
26 to applications filed by the district council or by the Commission.

27                   **(6)   (I)    THIS PARAGRAPH APPLIES ONLY IN PRINCE GEORGE'S**  
28 **COUNTY.**

29                           **(II)   FOR THE PURPOSE OF CREATING A PUBLIC RECORD**  
30 **AND A TRANSPARENT AND OPEN PROCESS, THE DISTRICT COUNCIL SHALL**  
31 **REVIEW THE PLANNING BOARD'S ACTION ON-SITE PLANS AND COMPREHENSIVE**  
32 **AND SPECIFIC DESIGN PLANS ONLY IF THE APPLICANT OR ANOTHER PERSON OF**  
33 **RECORD PETITIONS FOR THE REVIEW.**

34                                   **(III)   A PERSON MAY NOT ENTER INTO ANY AGREEMENT TO**  
35 **PROVIDE OR RECEIVE FOR COMPENSATION OR ANYTHING OF VALUE THAT IS**  
36 **DEPENDENT IN ANY MANNER ON ANY GOVERNMENTAL ACTION OR DECISION OF**  
37 **THE DISTRICT COUNCIL, THE COUNTY COUNCIL, THE PLANNING BOARD, OR**  
38 **ANY AGENCY OR OFFICIAL OF THE COUNTY GOVERNMENT.**

1                   (IV) A MEMBER OF THE DISTRICT COUNCIL OR THE COUNTY  
2 COUNCIL, OR ANY EMPLOYEE OR AGENT OF THE DISTRICT COUNCIL OR  
3 COUNTY COUNCIL, MAY NOT RECOMMEND, SUGGEST, OR PROPOSE TO ANY  
4 APPLICANT FOR DEVELOPMENT ANY SPECIFIC INDIVIDUAL OR CORPORATION  
5 OR OTHER ENTITY FOR INCLUSION IN THE APPLICANT'S PROJECT AS AN AGENT,  
6 EMPLOYEE, VENDOR, CONTRACTOR, SUBCONTRACTOR, JOINT VENTURE  
7 PARTNER, OR ANY OTHER PARTICIPANT IN THE PROJECT.

8                   (V) 1. SUBJECT TO SUBSUBPARAGRAPH 2 OF THIS  
9 SUBPARAGRAPH, THE COUNTY COUNCIL, THE DISTRICT COUNCIL, OR ANY  
10 MEMBER OF THE COUNTY COUNCIL OR DISTRICT COUNCIL MAY NOT, DIRECTLY  
11 OR INDIRECTLY, CONDITION THE APPROVAL OF ANY APPLICATION FOR  
12 REZONING, A SITE PLAN, A WATER AND SEWER SYSTEM, OR A PRELIMINARY  
13 PLAN OF SUBDIVISION ON A REQUIREMENT THAT THE APPLICANT PROVIDE  
14 MONETARY PAYMENTS OR ANYTHING OF VALUE TO ANY SPECIFIC INDIVIDUAL,  
15 ORGANIZATION, OR ENTITY.

16                   2. SUBSUBPARAGRAPH 1 OF THIS SUBPARAGRAPH  
17 MAY NOT BE CONSTRUED TO AFFECT ANY LAWFULLY ENACTED ADEQUATE  
18 PUBLIC FACILITIES REQUIREMENT, MINORITY BUSINESS REQUIREMENT, OR  
19 ANY OTHER REQUIREMENT OR CONDITION THE PURPOSE OF WHICH IS TO  
20 MITIGATE THE IMPACT OF A DEVELOPMENT ON THE PROPERTY OWNERS IN THE  
21 AREAS SURROUNDING THE DEVELOPMENT.

22   Article – State Government

23 15–713.

24                   A regulated lobbyist may not:

25                   (1) be engaged for lobbying purposes for compensation that is  
26 dependent in any manner on:

27   (i) the enactment or defeat of legislation;

28   (ii) the outcome of any executive action relating to the  
29 solicitation or securing of a procurement contract; or

30   (iii) any other contingency related to executive action or  
31 legislative action;

32                   (2) initiate or encourage the introduction of legislation for the purpose  
33 of opposing the legislation;

34                   (3) knowingly counsel any person to violate any provisions of this title  
35 or any other State or federal law;

1 (4) engage in or counsel any person to engage in fraudulent conduct;

2 (5) while engaging in lobbying activities, knowingly make to an official  
3 or employee a statement of material fact relating to lobbying activity that the  
4 regulated lobbyist knows to be false;

5 (6) engage in lobbying without being properly registered as a  
6 regulated lobbyist in accordance with § 15–701 of this subtitle;

7 (7) request an official or employee to recommend to a potential client  
8 the lobbying services of the regulated lobbyist or any other regulated lobbyist;

9 (8) make a gift, directly or indirectly, to an official or employee if the  
10 regulated lobbyist knows or has reason to know the gift is in violation of Subtitle 5 of  
11 this title;

12 (9) make a gift directly or indirectly as a result of a solicitation or  
13 facilitation, which the regulated lobbyist knows or has reason to know is prohibited  
14 under § 15–505(a)(2) of this title;

15 (10) if the regulated lobbyist is an individual, engage in any charitable  
16 fund–raising activity at the request of an official or employee, including soliciting,  
17 transmitting the solicitation of, or transmitting a charitable contribution;

18 (11) unless in the ordinary course of business of the regulated lobbyist,  
19 make or facilitate the making of any loan of money, goods, or services to an official or  
20 employee;

21 (12) while engaging in lobbying activities on behalf of an entity,  
22 knowingly conceal from an official or employee, the identity of the entity;

23 (13) commit a criminal offense arising from lobbying activity; or

24 (14) if serving on the State or a local central committee of a political  
25 party, participate:

26 (i) as an officer of the central committee;

27 (ii) in fund–raising activity on behalf of the political party; or

28 (iii) in actions relating to filling a vacancy in a public office.

29 15–803.

30 (a) Subject to § 15–209 of this title, each county and each municipal  
31 corporation shall enact provisions to govern the public ethics of local officials relating  
32 to:

- 1 (1) conflicts of interest;
- 2 (2) financial disclosure; and
- 3 (3) lobbying.

4 (b) Each local ethics commission or appropriate entity shall certify to the  
5 Ethics Commission that the county or municipal corporation is in compliance with the  
6 requirements for elected local officials of this Part I on or before October 1 of each  
7 year.

8 15-806.

9 The lobbying provisions enacted by a county or municipal corporation under §  
10 15-803 of this subtitle shall be substantially similar to the provisions of Subtitle 7 of  
11 this title, but:

12 (1) shall be modified to the extent necessary to make the provisions  
13 relevant to that jurisdiction; and

14 (2) may be further modified to the extent considered necessary and  
15 appropriate by and for that jurisdiction.

16 15-829.

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

18 (c) (1) (i) "Applicant" means an individual or business entity that is:

19 1. a title owner or contract purchaser of land that is the  
20 subject of an application;

21 2. a trustee that has an interest in land that is the  
22 subject of an application, excluding trustees described in a mortgage or deed of trust;  
23 or

24 3. a holder of 5 percent or greater interest in a business  
25 entity that has an interest in land that is the subject of an application but only if:

26 A. the holder of 5 percent or greater interest has  
27 substantive involvement in directing the affairs of the business entity with an interest  
28 in the land which is the subject of an application with specific regard to the disposition  
29 of the land which is the subject of the application; or

30 B. the holder of 5 percent or greater interest is engaged  
31 in substantive activities pertaining specifically to land development in Prince George's  
32 County as a regular part of the business entity's ongoing business activities.

1 (ii) Where the applicant is a corporation, the term also includes  
2 the directors and officers of the corporation which actually holds title to the land, or is  
3 a contract purchaser of the land, which is the subject of an application, but does not  
4 include the directors and officers of any entity which does not hold title to, or is not the  
5 contract purchaser of, land which is the subject of an application.

6 (2) “Applicant” includes any business entity in which a person  
7 described in paragraph (1) of this subsection holds a 5 percent or greater interest.

8 (3) “Applicant” does not include:

9 (i) a bank, savings and loan institution, or other financial  
10 institution which has loaned money or extended financing for the acquisition,  
11 development, or construction of improvements upon any land that is the subject of an  
12 application;

13 (ii) a municipal or public corporation;

14 (iii) a public authority; or

15 (iv) a public utility regulated by the Public Service Commission  
16 in any instance where the utility is engaged in or conducting regulated activities that  
17 have been approved by the Public Service Commission or are permitted under Division  
18 I of the Public Utilities Article.

19 (i) “County Council” means the County Council of Prince George’s County.

20 (j) “County Executive” means the County Executive of Prince George’s  
21 County.

22 (k) “District Council” means the County Council of Prince George’s County  
23 sitting as the District Council for the Prince George’s County portion of the  
24 Maryland–Washington Regional District.

25 15–844.

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

27 (d) “Lobbyist” means a person required to register under § 2–295 of the  
28 Prince George’s County Code or § 19A–21 of the Montgomery County Code.

29 15–845.

30 (a) Beginning with the effective date of a lobbying registration and extending  
31 through the ending date of the registration period, a lobbyist who lobbies a local  
32 official, or a person acting on behalf of the lobbyist, may not:

1 (1) solicit or transmit directly or indirectly a contribution from any  
2 person, including a political committee, for the benefit of a local official or candidate;

3 (2) serve on a fund-raising committee of, or a political committee for  
4 the benefit of, a local official or candidate; or

5 (3) act as a treasurer or chairman of a political committee for the  
6 benefit of a local official or candidate.

7 (b) This Part VI may not be construed to prohibit a lobbyist from:

8 (1) making a personal contribution within the limitations established  
9 under the Election Law Article; or

10 (2) informing the lobbyist's employer or others of the positions taken  
11 by a particular candidate for office.

12 **(c) (1) IN PRINCE GEORGE'S COUNTY, THE PROVISIONS OF §**  
13 **15-713(1) OF THIS TITLE SHALL APPLY TO ANY PERSON WHO:**

14 **(I) IS REQUIRED TO REGISTER AS A LOBBYIST; OR**

15 **(II) REPRESENTS OR WORKS ON BEHALF OF AN APPLICANT**  
16 **ON A MATTER PENDING BEFORE THE COUNTY COUNCIL OR THE DISTRICT**  
17 **COUNCIL.**

18 **(2) A PERSON ENGAGED ON BEHALF OF AN APPLICANT ON ANY**  
19 **MATTER PENDING BEFORE THE COUNTY COUNCIL OR DISTRICT COUNCIL MAY**  
20 **NOT BE COMPENSATED ON A BASIS THAT IS CONTINGENT IN ANY MANNER ON**  
21 **THE OUTCOME OF ANY GOVERNMENTAL ACTION OR DECISION.**

22 **[(c)] (D)** (1) Any person who knowingly and willfully violates the  
23 provisions of this Part VI is guilty of a misdemeanor and upon conviction is subject to  
24 a fine of not more than \$1,000 or imprisonment for not more than 1 year or both.

25 (2) If the person is a business entity and not a natural person, each  
26 officer and partner of the business entity who knowingly authorized or participated in  
27 the violation is guilty of a misdemeanor and upon conviction is subject to the same  
28 penalties as the business entity.

29 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
30 June 1, 2011.