

MARYLAND REGISTER

Proposed Action on Regulations

Transmittal Sheet PROPOSED OR REPROPOSED Actions on Regulations	Date Filed with AELR Committee	TO BE COMPLETED BY DSD
	07/15/2014	Date Filed with Division of State Documents
		Document Number
		Date of Publication in MD Register

1. Desired date of publication in Maryland Register: 8/22/2014

2. COMAR Codification

Title Subtitle Chapter Regulation

33 13 16 01,.02

3. Name of Promulgating Authority

State Board of Elections

4. Name of Regulations Coordinator Telephone Number
Erin Perrone 410-269-2845

Mailing Address

151 West Street

City State Zip Code
Annapolis MD 21401

Email
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5. Name of Person to Call About this Document Telephone No.
Jared DeMarinis 410-269-2853

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6. Check applicable items:
X- New Regulations

- Amendments to Existing Regulations
 - Date when existing text was downloaded from COMAR online: .
 - Repeal of Existing Regulations
 - Recodification
 - Incorporation by Reference of Documents Requiring DSD Approval
 - Reproposal of Substantively Different Text:
 - : Md. R
 - (vol.) (issue) (page nos) (date)
- Under Maryland Register docket no.: --P.

7. Is there emergency text which is identical to this proposal:

- Yes No

8. Incorporation by Reference

Check if applicable: Incorporation by Reference (IBR) approval form(s) attached and 18 copies of documents proposed for incorporation submitted to DSD. (Submit 18 paper copies of IBR document to DSD and one copy to AELR.)

9. Public Body - Open Meeting

- OPTIONAL - If promulgating authority is a public body, check to include a sentence in the Notice of Proposed Action that proposed action was considered at an open meeting held pursuant to State Government Article, §10-506(c), Annotated Code of Maryland.

OPTIONAL - If promulgating authority is a public body, check to include a paragraph that final action will be considered at an open meeting.

10. Children's Environmental Health and Protection

Check if the system should send a copy of the proposal to the Children's Environmental Health and Protection Advisory Council.

11. Certificate of Authorized Officer

I certify that the attached document is in compliance with the Administrative Procedure Act. I also certify that the attached text has been approved for legality by Jeffrey Darsie, Assistant Attorney General, (telephone #410-576-6356) on 04/17/2014. A written copy of the approval is on file at this agency.

Name of Authorized Officer

Linda H. Lamone

Title

State Administrator

Telephone No.

410-269-2840

Date

07/14/2014

STATE BOARD OF ELECTIONS

Subtitle 13 CAMPAIGN FINANCING

33.13.16 Contributions by Business Ethics

Authority: Authority: Election Law Article, §2-102(b)(4), Annotated Code of Maryland

Notice of Proposed Action

□

The State Board of Elections proposes to adopt Regulations .01 and .02 under COMAR 33.13.16 Contributions by Business Entities.

This action was considered by the State Board of Elections at its July 10, 2014, meeting, notice of which was given in accordance with State Government Article, §10-506(c), Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to detail the new attribution rule for business entities. The prior version of Election Law Article §13-226 (e) provided: "Contributions by a corporation and any wholly owned subsidiary of the corporation, or by two or more corporations owned by the same stockholders, shall be considered as being made by one contributor." Chapter 419 of the 2013 General Assembly Legislative Session changed the attribution rule to read as follows "Contributions by two or more business entities shall be considered as being made by one contributor if one business entity is a wholly owned subsidiary of another; or the business entities are owned or controlled by at 80% of the same individuals or business entities." The law was specifically passed to close the so-called "LLC loophole".

The proposed regulations specify what constitutes ownership and control. The proposed regulations focus on management control over the direction and amounts of political activity by a business entity as the standard. This approach is consistent with the recommendation of the Commission to Study Campaign Finance Law. Additionally, the proposed regulations provide potential contributors and political committees notice on affiliated businesses in order to remain compliant with contribution limits.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Erin Perrone, Administrative Assistant, State Board of Elections, PO Box 6486, Annapolis, MD 21401-0486, or call 410-269-2845, or email to erin.perrone@maryland.gov, or fax to 410-974-2019. Comments will be accepted through September 22, 2014. A public hearing has not been scheduled.

Economic Impact Statement Part C

- A. Fiscal Year in which regulations will become effective: FY 0
- B. Does the budget for the fiscal year in which regulations become effective contain funds to implement the regulations?
- C. If 'yes', state whether general, special (exact name), or federal funds will be used:
- D. If 'no', identify the source(s) of funds necessary for implementation of these regulations:
- E. If these regulations have no economic impact under Part A, indicate reason briefly:
- F. If these regulations have minimal or no economic impact on small businesses under Part B, indicate the reason and attach small business worksheet.
- G. Small Business Worksheet:

Attached Document:

Title 33 State Board of Elections

Subtitle 13 Campaign Financing

Chapter 16 Contributions by Business Entities

Authority: Election Law Article, §2-102(b)(4), Annotated Code of Maryland

.01 Scope.

A. Applicability. This chapter applies to contributions made by business entities in accordance with Election Law Article, §13-226, Annotated Code of Maryland.

B. Effective Date. This chapter is effective as of January 1, 2015.

.02 Attribution.

A. *In General.* For purposes of applying the contribution limits provided in Election Law Article, 13-226(b), contributions by two or more business entities are considered to be made by one contributor and affiliated if:

(1) One business entity is a wholly owned subsidiary of another; or

(2) The business entities are owned or controlled by at least 80% of the same individuals or business entities.

B. *Standard.* For purposes of Election Law Article, §13-226(e), two or more business entities shall be considered to be owned or controlled by at least 80% of the same individuals or business entities if:

(1) 80% or more of the beneficial ownership or equity of each entity is held by the same person or group of persons; or

(2) 80% or more of the voting shares or rights, membership or partnership interests with voting or governing authority, control rights, trust control, or other form of governance or rights authority, in each entity is directly or indirectly held or controlled by the same person or group of persons.

C. *Control.* A person or group of persons is deemed to have direct or indirect control of one or more business entities if the person or group of persons is authorized to make decisions regarding:

(1) Direction and amount of contributions, political spending, or any other political activity on behalf of the business entities; or

(2) Responsibility for day-to-day operation of the business entities.

D. *Notice Requirement.* At the time a contribution is made, the contributing business entity shall determine whether an affiliated business entity has made a prior contribution to the political committee during the current election cycle and, if so, provide prompt written notice to the political committee of the prior contribution, including the name and address of the affiliated business entity.

E. *Affiliation.*

(1) After a determination of affiliation is made for contribution purposes, the business entities for the remainder of the election cycle will be considered as one contributor.

(2) If the business entity acquires, merges, changes ownership or control over another business entity and would be determined to be affiliated for contribution purposes,

(a) The prior contributions made by the acquired, merged, or newly-owned or -controlled business entity will not be retroactively attributed to the original business entity; and

(b) The future contributions made by the acquired, merged, or newly-owned or -controlled business entity will be attributed to the original business entity, along with the current aggregate contributions made by the original business entity.

F. *Prohibition.*

(1) If a business entity is prohibited from making contributions, then all business entities affiliated with it are also prohibited from making contributions during the election cycle.

(2) Ownership or control of a business entity may not be changed or altered for the purpose of circumventing the contribution limits provided in Election Law Article 13-226