
By: Howard County Delegation

Introduced and read first time: January 15, 1997

Assigned to: Commerce and Government Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Howard County Ethics Bill**
3 **Ho. Co. 1-97**

4 FOR the purpose of requiring an applicant in certain zoning proceedings in Howard
5 County to file a certain affidavit stating whether the applicant is engaging in
6 business with certain elected officials when the application has been filed; requiring
7 an applicant who begins engaging in business with certain elected officials between
8 the filing of an application and the disposition of the application to file an affidavit
9 at a certain time; defining a certain term; providing for the application of this Act;
10 and generally relating to Ethics Law provisions for Howard County.

11 BY repealing and reenacting, with amendments,
12 Article - State Government
13 Section 15-848 and 15-849
14 Annotated Code of Maryland
15 (1995 Replacement Volume and 1996 Supplement)

16 BY repealing and reenacting, without amendments,
17 Article - State Government
18 Section 15-850
19 Annotated Code of Maryland
20 (1995 Replacement Volume and 1996 Supplement)

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

23 **Article - State Government**

24 15-848.

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

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

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

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

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

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

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

10 (2) "Applicant" includes:

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

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

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

17 2. in the case of any other corporation, the officer or director
18 owns any interest in the corporation.

19 (3) "Applicant" does not include:

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

23 (ii) a municipal or public corporation;

24 (iii) a public authority;

25 (iv) a public service company acting within the scope of Article 78 of
26 the Code; or

27 (v) a person who is:

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

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

33 (c) "Application" means:

34 (1) an application for a zoning map amendment; or

35 (2) participation in the adoption and approval of a comprehensive zoning
36 plan by appearing at a public hearing, filing a statement in an official record, or engaging

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1 in other similar communication to an elected official, where the intent is to change the
2 classification or increase the density of the land of the applicant.

3 (d) "Business entity" means:

4 (1) a sole proprietorship;

5 (2) a corporation;

6 (3) a general partnership;

7 (4) a limited partnership;

8 (5) a limited liability company; or

9 (6) a joint venture.

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

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

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

17 (h) (1) "ENGAGING IN BUSINESS" MEANS ENTERING INTO ANY:

18 (I) SALE, PURCHASE, LEASE, OR OTHER TRANSACTION
19 INVOLVING GOODS, SERVICES, OR REAL PROPERTY; OR

20 (II) CONTRACT, AWARD, LOAN, EXTENSION OF CREDIT, OR ANY
21 OTHER FINANCIAL TRANSACTION.

22 (2) "ENGAGING IN BUSINESS" DOES NOT INCLUDE THE SALE OF GOODS
23 TO AN INDIVIDUAL FOR THE USE OR CONSUMPTION OF THE INDIVIDUAL OR
24 OTHERS FOR PERSONAL, FAMILY, OR HOUSEHOLD PURPOSES, AS DISTINGUISHED
25 FROM INDUSTRIAL, COMMERCIAL, OR AGRICULTURAL PURPOSES.

26 (I) "Family member" means the spouse or child of either an applicant or a party
27 of record who has made a contribution with the knowledge and consent of the applicant
28 or party of record.

29 [(i)] (J) "Party of record" means an individual or business entity that participates
30 in a map amendment proceeding by the County Council or the zoning board, or who
31 participates in the adoption and approval of a comprehensive zoning plan by appearing at
32 a public hearing, filing a statement in an official record, or engaging in other similar
33 communication to an elected official where the intent is to oppose a change in
34 classification or an increase in density of the land of an applicant.

35 [(j)] (K) "Political committee" means a committee, continuing or noncontinuing,
36 specifically created to promote the candidacy of a person running for elective office.

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1 [(k)] (L) "Slate" means a group, combination, or organization of candidates
2 created under the provisions of Article 33 of the Code.

3 [(l)] (M) (1) "Treasurer" has the meaning provided in Article 33, § 1-1 of the
4 Code.

5 (2) "Treasurer" includes a subtreasurer.

6 15-849.

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

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

13 (II) IS CURRENTLY ENGAGING IN BUSINESS WITH AN ELECTED
14 OFFICIAL.

15 (2) (i) If the applicant or a party of record or a family member has made
16 a contribution or contributions having a cumulative value of \$500 or more during the
17 48-month period before the application was filed or during the pendency of the
18 application, the applicant or the party of record shall file a disclosure providing the name
19 of the candidate or elected official to whose treasurer or political committee the
20 contribution was made, the amount, and the date of the contribution. However, if the
21 party of record is a community association, this paragraph may not be construed to
22 require the association to poll its members to disclose individual contributions.

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

25 (3) AN APPLICANT WHO BEGINS ENGAGING IN BUSINESS WITH AN
26 ELECTED OFFICIAL BETWEEN THE FILING OF THE APPLICATION AND THE
27 DISPOSITION OF THE APPLICATION SHALL FILE THE AFFIDAVIT AT THE TIME OF
28 ENGAGING IN BUSINESS WITH THE ELECTED OFFICIAL.

29 (b) [The] EXCEPT AS PROVIDED IN SUBSECTION (A)(3) OF THIS SECTION, THE
30 affidavit or disclosure shall be filed at least 30 calendar days prior to any consideration of
31 the application by an elected official.

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

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

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

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

5 (1) receive filings of affidavits and disclosures;

6 (2) maintain filed affidavits and disclosures as public records available for
7 review by the general public during normal business hours;

8 (3) report violations to the Howard County Ethics Commission; and

9 (4) perform ministerial duties necessary to administer this Part VII.

10 (g) (1) At least twice each calendar year the administrative assistant to the
11 zoning board and the administrator of the County Council shall prepare a summary
12 report compiling all affidavits and disclosures that have been filed.

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

15 15-850.

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

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

21 (b) (1) Any person who is subject to the provisions of this Part VII shall
22 preserve for 3 years from the date of filing the application all accounts, bills, receipts,
23 books, papers, and documents necessary to complete and substantiate any reports,
24 statements, or records required to be made under this Part VII.

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

28 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed
29 only prospectively and may not be applied or interpreted to have any effect on or
30 application to any action or event, including the filing of an application as defined in §
31 15-848 of the State Government Article of the Annotated Code of Maryland before the
32 effective date of this Act.

33 SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect
34 October 1, 1997.