

Chapter 91

(Senate Bill 902)

AN ACT concerning

Prince George's County – Public Ethics Requirements – Limitations on Contributions to Slates Containing the County Executive or a Member of the County Council and on Participation of County Council Members in Land Use Applications

FOR the purpose of prohibiting payments to be made, under certain circumstances, to slates that include a member of the County Council for Prince George's County or the Prince George's County Executive during the pendency of certain applications; expanding a prohibition on a member of the County Council voting or participating in certain applications if the member received certain payments during a certain period by including payments to certain slates; repealing a provision that allows a member to participate in certain applications if a certain affidavit is not filed; providing for the prospective application of this Act; and generally relating to the expansion of public ethics requirements in Prince George's County.

BY repealing and reenacting, without amendments,
Article – State Government
Section 15–829(a), (d), (f), (l), and (p)
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

BY repealing and reenacting, with amendments,
Article – State Government
Section 15–829(m) and 15–831
Annotated Code of Maryland
(2009 Replacement Volume and 2010 Supplement)

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

Article – State Government

15–829.

- (a) In this Part IV the following words have the meanings indicated.
- (d) “Application” means:

(1) an application for a zoning map amendment, special exception, departure from design standards, revision to a special exception site plan, expansion of a legal nonconforming use, revision to a legal nonconforming use site plan, or a request for a variance from the zoning ordinance;

(2) an application to approve a comprehensive design plan, a conceptual site plan, or a specific design plan; or

(3) participation in adopting and approving an area master plan or sectional map amendment by appearance at a public hearing, filing a statement in the official record, or other similar communication to a member of the County Council or the Planning Board, where the intent is to intensify the zoning category applicable to the land of the applicant.

(f) “Candidate” means a candidate for election to the County Council who becomes a member.

(l) “Member of the County Council” includes any candidate or person duly elected or appointed who takes the oath of office as a member of the County Council for Prince George’s County and who thereby serves on the District Council.

(m) “Payment” means any payment or contribution of money or property or the incurring of any liability or promise of anything of value to a treasurer of a candidate [or of], a **CANDIDATE’S** continuing political committee, **OR A SLATE TO WHICH THE CANDIDATE BELONGS.**

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

15–831.

(a) An applicant or agent of the applicant may not make a payment to a member of the County Council, [or to] the County Executive, **OR A SLATE THAT INCLUDES THE COUNTY EXECUTIVE OR A MEMBER OF THE COUNTY COUNCIL,** during the pendency of the application.

(b) (1) After an application has been filed, a member of the County Council may not vote or participate in any way in the proceeding on the application if the member’s treasurer or [the member’s] continuing political committee, **OR A SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36–MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION,** received a payment[,] during the 36–month period before the filing of the application or during the pendency of the application[,] from any of the applicants or the agents of the applicants.

(2) A member is not subject to the requirements of paragraph (1) of this subsection if:

(i) [as to the application, no applicant or agent has filed an affidavit naming the member or the member's continuing political committee as the recipient of a payment; or

(ii) 1.] a transfer to the member's treasurer [or], A continuing political committee, **OR A SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION** was made by a political action committee to which an applicant or agent had made a payment;

[2.] **(II)** the applicant or agent made the payment to the political action committee without any intent to subvert the purposes of this subtitle;

[3.] **(III)** the applicant's or agent's payment to the political action committee, and the political action committee's transfer, are disclosed in an affidavit; and

[4.] **(IV)** the transfer is returned to the political action committee by the member, or the payment is returned to the applicant or agent by the political action committee.

(c) (1) After an application is filed, the applicant shall file an affidavit, under oath, stating to the best of the applicant's information, knowledge, and belief that:

(i) 1. during the 36-month period before the filing of the application and during the pendency of the application, the applicant has not made any payment to [the treasurer of a candidate or] **A MEMBER'S OR CANDIDATE'S TREASURER, A MEMBER'S OR CANDIDATE'S continuing political committee, OR A SLATE TO WHICH THE MEMBER OR CANDIDATE BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION;** or

2. if any such payment was made, discloses the name of the member to whose treasurer[,] or [whose] continuing political committee, **OR SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION,** the payment was made;

(ii) 1. during the 36-month period before the filing of the application and during the pendency of the application, the applicant has not solicited any person or business entity to make a payment to [the treasurer of a candidate or] **A MEMBER'S OR CANDIDATE'S TREASURER, A MEMBER'S OR CANDIDATE'S**

continuing political committee, **OR A SLATE TO WHICH THE MEMBER OR CANDIDATE BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION;** or

2. if any such solicited payment was made, discloses the name of the member to whose treasurer[,] or [whose] continuing political committee, **OR SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION,** the payment was made; and

(iii) 1. during the 36-month period before the filing of the application and during the pendency of the application, a member of the applicant's household has not made a payment to [the treasurer of a candidate or] **A MEMBER'S OR CANDIDATE'S TREASURER, A MEMBER'S OR CANDIDATE'S** continuing political committee, **OR A SLATE TO WHICH THE MEMBER OR CANDIDATE BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION;** or

2. if such a payment has been made, discloses the name of the member to whose treasurer[,] or [whose] continuing political committee, **OR SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION,** the payment was made.

(2) The affidavit may be filed any time prior to consideration of the application by the District Council, at the discretion of the applicant. However, in no event may the affidavit be filed less than 30 calendar days prior to consideration by the District Council of the application.

(3) A supplemental affidavit shall be filed whenever a payment is made after the original affidavit was filed.

(4) An applicant has no obligation to make any representations pertaining to the actions of anyone other than that applicant under the affidavit. In the case of business entities, anyone with authority to act on behalf of, and bind, the business entity may execute an affidavit on behalf of the business entity itself.

(5) The only disclosures required under the affidavit are those involving individuals or business entities that would be subject to the provisions of this subtitle.

(d) (1) An agent shall file an affidavit in an application only if:

(i) the agent has acted on behalf of the applicant with regard to the specific application; and

(ii) during the 36-month period before the filing of the application and during the pendency of the application, and after becoming an agent of the applicant:

1. the agent has made a payment to a **MEMBER OR candidate [or], A MEMBER'S OR CANDIDATE'S** continuing political committee, **OR A SLATE TO WHICH THE MEMBER OR CANDIDATE BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION;** or

2. the agent has solicited any person to make a payment to [the treasurer of a candidate or] **A MEMBER'S OR CANDIDATE'S TREASURER, a MEMBER'S OR CANDIDATE'S** continuing political committee, **OR A SLATE TO WHICH THE MEMBER OR CANDIDATE BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION.**

(2) Notwithstanding the provisions of paragraph (1)(ii) of this subsection, an agent shall disclose in the affidavit a payment made before becoming an agent if the agent:

(i) made the payment by prearrangement or in coordination with one or more applicants; or

(ii) acted as an agent as to any other application filed during the 36-month period.

(e) (1) Except as provided in paragraph (2) of this subsection, a contributor, a member of the County Council, or a political action committee is subject to this Part IV if a payment is made by the contributor or a transfer is made by the political action committee to:

(i) the candidate; [or]

(ii) the candidate's continuing political committee; **OR**

(III) A SLATE TO WHICH THE MEMBER OR CANDIDATE BELONGS OR BELONGED DURING THE 36-MONTH PERIOD PRECEDING THE FILING OF THE APPLICATION.

(2) The provisions of this Part IV do not apply to:

(i) [any payment or transfer to a slate, unless the slate is composed solely of candidates or members of the County Council;

(ii)] any transfer to the continuing political committee of a candidate or member of the County Council by the continuing political committee of another individual running for elective office; or

[(iii)] (II) a payment or transfer to the Prince George's County Central Committee, or State Central Committee, of a political party, even if the Central Committee supports a candidate.

(3) A person may not make a payment in violation of this Part IV.

(f) An applicant or agent may not take any action, directly or indirectly, with the intent to circumvent the intent of this subtitle.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall be construed to apply only prospectively and may not be applied or interpreted to prohibit a member of the Prince George's County Council from participating in a district council proceeding based on a payment made before January 1, 2011.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2011.

Approved by the Governor, April 12, 2011.