

SENATE BILL 973

C8

7lr3249
CF 7lr2583

By: **Senator Kagan**

Introduced and read first time: February 3, 2017

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland Technology Development Corporation**

3 FOR the purpose of prohibiting certain provisions of the Public Ethics Law from being
4 construed to prohibit a member of the Maryland Technology Corporation Board from
5 being employed by or having a financial interest in a certain entity under certain
6 circumstances; requiring the Corporation, in consultation with the State Ethics
7 Commission, to adopt certain procedures to govern conflicts of interest; and generally
8 relating to the Public Ethics Law and members of the Maryland Technology
9 Development Corporation.

10 BY repealing and reenacting, with amendments,
11 Article – Economic Development
12 Section 10–407
13 Annotated Code of Maryland
14 (2008 Volume and 2016 Supplement)

15 BY repealing and reenacting, without amendments,
16 Article – General Provisions
17 Section 5–502 and 5–503
18 Annotated Code of Maryland
19 (2014 Volume and 2016 Supplement)

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

22 **Article – Economic Development**

23 10–407.

24 (a) Except as provided in subsections (b), (c), and (e) of this section, the
25 Corporation is exempt from:

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (1) Title 10 and Division II of the State Finance and Procurement Article;
2 and

3 (2) §§ 3–301 and 3–303 of the General Provisions Article.

4 (b) The Corporation is subject to the Public Information Act.

5 (c) **(1) [The] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS**
6 **SUBSECTION, THE** Board and the officers and employees of the Corporation are subject to
7 the Public Ethics Law.

8 **(2) (I) SECTIONS 5–502 AND 5–503 OF THE GENERAL PROVISIONS**
9 **ARTICLE MAY NOT BE CONSTRUED TO PROHIBIT A MEMBER OF THE BOARD FROM**
10 **BEING EMPLOYED BY OR HAVING A FINANCIAL INTEREST IN AN ENTITY THAT IS**
11 **NEGOTIATING A CONTRACT OR ALREADY HAS CONTRACTED WITH THE**
12 **CORPORATION IF THE MEMBER:**

13 **1. RECUSES HIMSELF OR HERSELF FROM ANY BOARD**
14 **ACTION RELATED TO THE ENTITY; AND**

15 **2. PROVIDES NOTICE TO THE GOVERNOR OF THE**
16 **NATURE OF THE CONFLICT OF INTEREST.**

17 **(II) THE CORPORATION, IN CONSULTATION WITH THE STATE**
18 **ETHICS COMMISSION, SHALL ADOPT PROCEDURES TO GOVERN CONFLICTS OF**
19 **INTEREST BETWEEN A BOARD MEMBER AND AN ENTITY NEGOTIATING A CONTRACT**
20 **OR ALREADY CONTRACTING WITH THE CORPORATION.**

21 (d) The officers and employees of the Corporation are not subject to the provisions
22 of Division I of the State Personnel and Pensions Article that govern the State Personnel
23 Management System.

24 (e) The Corporation, its Board, and employees are subject to Title 12, Subtitle 4
25 of the State Finance and Procurement Article.

26 **Article – General Provisions**

27 5–502.

28 (a) This section does not apply to members of the General Assembly.

29 (b) Except as provided in subsections (c) and (d) of this section, an official or
30 employee may not:

1 (1) be employed by or have a financial interest in:

2 (i) an entity subject to the authority of that official or employee or
3 of the governmental unit with which the official or employee is affiliated; or

4 (ii) an entity that is negotiating or has entered a contract with that
5 governmental unit or an entity that is a subcontractor on a contract with that governmental
6 unit; or

7 (2) hold any other employment relationship that would impair the
8 impartiality and independent judgment of the official or employee.

9 (c) The prohibitions of subsection (b) of this section do not apply:

10 (1) to employment or a financial interest allowed by regulation of the
11 Ethics Commission if:

12 (i) the employment does not create a conflict of interest or the
13 appearance of a conflict of interest; or

14 (ii) the financial interest is disclosed;

15 (2) to a public official who is appointed to a regulatory or licensing unit in
16 accordance with a statutory requirement that entities subject to the jurisdiction of the unit
17 be represented in appointments to it;

18 (3) as allowed by regulations adopted by the Ethics Commission, to an
19 employee whose government duties are ministerial, if the private employment or financial
20 interest does not create a conflict of interest or the appearance of a conflict of interest; or

21 (4) to a member of a board who holds the employment or financial interest
22 when appointed if the employment or financial interest is disclosed publicly to the
23 appointing authority, the Ethics Commission, and, if applicable, the Senate of Maryland
24 before Senate confirmation.

25 (d) (1) Subject to paragraph (2) of this subsection, the Ethics Commission may
26 exempt a public official of an executive unit or an employee of an executive unit from the
27 prohibitions of subsection (b) of this section if the Ethics Commission determines that:

28 (i) failure to grant the exemption would limit the ability of the State
29 to:

30 1. recruit and hire highly qualified or uniquely qualified
31 professionals for public service; or

32 2. assure the availability of competent services to the public;
33 and

1 (ii) the number of exemptions granted under this subsection has not
2 eroded the purposes of subsection (b) of this section or other provisions of this title.

3 (2) (i) The Ethics Commission may grant an exemption under
4 paragraph (1) of this subsection only:

5 1. in extraordinary situations; and

6 2. on the recommendation of the Governor, at the request of
7 the executive unit involved.

8 (ii) The Ethics Commission shall apply this subsection as
9 consistently as possible under similar facts and circumstances.

10 5-503.

11 (a) This section does not apply to members of the General Assembly.

12 (b) An official or employee may not be employed by an entity that is a party to a
13 contract that binds or purports to bind the State if:

14 (1) the duties of the official or employee include matters substantially
15 relating to or affecting the subject matter of the contract; and

16 (2) the contract binds or purports to bind the State to pay more than
17 \$1,000.

18 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect July
19 1, 2017.