

Bill No.: _____
Requested: _____
Committee: _____

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By: **Delegate Miller**

A BILL ENTITLED

1 AN ACT concerning

2 **Howard County – Public Ethics – Developer Contributions**

3 **Ho. Co. 12–19**

4 FOR the purpose of repealing existing provisions of law related to developer contributions
5 in Howard County; prohibiting an applicant or applicant’s agent from making a
6 payment to a member of the Howard County Council, the Howard County Executive,
7 or a slate that includes a member of the County Council or the County Executive,
8 during the pendency of a certain application; prohibiting a member of the Howard
9 County Council from voting or participating in a proceeding on a certain application
10 if certain payments were received during a certain period; requiring an applicant to
11 file an affidavit disclosing certain information related to payments involving a
12 member of the County Council; requiring an agent of an applicant to file an affidavit
13 under certain circumstances; repealing certain definitions; and generally relating to
14 public ethics and Howard County.

15 BY repealing and reenacting, without amendments,
16 Article – General Provisions
17 Section 5–852(a)
18 Annotated Code of Maryland
19 (2014 Volume and 2018 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.
[Brackets] indicate matter deleted from existing law.



1 BY repealing
2 Article – General Provisions
3 Section 5–852(i) through (k)
4 Annotated Code of Maryland
5 (2014 Volume and 2018 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – General Provisions
8 Section 5–852(l) through (o) and 5–853
9 Annotated Code of Maryland
10 (2014 Volume and 2018 Supplement)

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

13 **Article – General Provisions**

14 5–852.

15 (a) In this part the following words have the meanings indicated.

16 [(i) (1) “Engaging in business” means entering into:

17 (i) a sale, a purchase, a lease, or other transaction involving goods,
18 services, or real property; or

19 (ii) a contract, an award, a loan, an extension of credit, or any other
20 financial transaction.

21 (2) “Engaging in business” does not include the sale of goods to an
22 individual for the use or consumption of the individual or others for personal, family, or
23 household purposes, as distinguished from industrial, commercial, or agricultural
24 purposes.

25 (j) “Family member” means the spouse or child of either an applicant or a party
26 of record who has made a contribution with the knowledge and consent of the applicant or
27 party of record.

1 (k) “Party of record” means an individual or business entity that participates in a
2 map amendment proceeding by the County Council or the zoning board, or who participates
3 in the adoption and approval of a comprehensive zoning plan by appearing at a public
4 hearing, filing a statement in an official record, or engaging in other similar communication
5 with an elected official where the intent is to oppose a change in classification or an increase
6 in density of the land of an applicant.]

7 [(l)] (I) “Political action committee” means a political committee that is not:

8 (1) a political party;

9 (2) a central committee;

10 (3) a slate; or

11 (4) a political committee organized and operated by, and solely on behalf
12 of, an individual running for any elective office or a slate.

13 [(m)] (J) “Political committee” means a committee, whether continuing or
14 noncontinuing, specifically created to promote the candidacy of a person running for
15 elective office.

16 [(n)] (K) “Slate” means a group, combination, or organization of candidates
17 created under the Election Law Article.

18 [(o)] (L) (1) “Treasurer” has the meaning stated in § 1–101 of the Election
19 Law Article.

20 (2) “Treasurer” includes a subtreasurer.

21 5–853.

22 [(a)] (1) When an application is filed, the applicant shall file an affidavit, under
23 oath, stating whether the applicant:

24 (i) has made any contribution or contributions having a cumulative
25 value of at least \$500 to the treasurer of a candidate or the treasurer of a political committee

1 during the 48-month period before the application is filed, to the best of the applicant's
2 information, knowledge, and belief; or

3 (ii) currently is engaging in business with an elected official.

4 (2) (i) 1. Except as provided in subparagraph 2 of this
5 subparagraph, if the applicant or a party of record or a family member has made a
6 contribution or contributions having a cumulative value of at least \$500 during the
7 48-month period before the application was filed or during the pendency of the application,
8 the applicant or the party of record shall file a disclosure providing the name of the
9 candidate or elected official to whose treasurer or political committee the contribution was
10 made, the amount, and the date of the contribution.

11 2. If the party of record is a community association, the
12 association is not required to poll its members to disclose individual contributions.

13 (ii) A contribution made between the filing of the application and the
14 disposition of the application shall be disclosed within 5 business days after the
15 contribution.

16 (3) An applicant who begins engaging in business with an elected official
17 between the filing of the application and the disposition of the application shall file the
18 affidavit at the time of engaging in business with the elected official.

19 (b) Except as provided in subsection (a)(3) of this section, the affidavit or
20 disclosure shall be filed at least 30 calendar days before any consideration of the application
21 by an elected official.

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

24 (d) (1) Except as provided in paragraph (2) of this subsection, a contributor
25 and an elected official are subject to this part if the contributor makes a contribution to:

26 (i) the candidate;

27 (ii) a slate; or

1 (iii) the candidate's political committee.

2 (2) This part does not apply to a transfer by a political action committee to
3 a candidate or the candidate's continuing political committee.

4 (e) (1) An affidavit or a disclosure required under this part shall be in a form
5 established by the Howard County Solicitor and approved by the County Council.

6 (2) The completed form shall be filed in the appropriate case file of an
7 application.

8 (3) The disclosure form shall repeat the penalty provision in § 5-854(a) of
9 this subtitle.

10 (f) A contribution made after the filing of the initial disclosure and before final
11 disposition of the application by the County Council shall be disclosed within 5 business
12 days after the contribution.]

13 **(A) AN APPLICANT OR AGENT OF THE APPLICANT MAY NOT MAKE A**
14 **PAYMENT TO AN ELECTED OFFICIAL OR A SLATE THAT INCLUDES AN ELECTED**
15 **OFFICIAL DURING THE PENDENCY OF THE APPLICATION.**

16 **(B) (1) AFTER AN APPLICATION HAS BEEN FILED, A MEMBER OF THE**
17 **COUNTY COUNCIL MAY NOT VOTE OR PARTICIPATE IN ANY WAY IN THE PROCEEDING**
18 **ON THE APPLICATION IF THE MEMBER'S TREASURER OR CONTINUING POLITICAL**
19 **COMMITTEE, OR A SLATE TO WHICH THE MEMBER BELONGS OR BELONGED DURING**
20 **THE 36-MONTH PERIOD BEFORE THE FILING OF THE APPLICATION, RECEIVED A**
21 **PAYMENT DURING THE 36-MONTH PERIOD BEFORE THE FILING OF THE**
22 **APPLICATION OR DURING THE PENDENCY OF THE APPLICATION FROM ANY OF THE**
23 **APPLICANTS OR THE AGENTS OF THE APPLICANTS.**

24 **(2) A MEMBER OF THE COUNTY COUNCIL IS NOT SUBJECT TO THE**
25 **REQUIREMENTS OF PARAGRAPH (1) OF THIS SUBSECTION IF:**

26 **(I) A TRANSFER TO THE MEMBER'S TREASURER, A CONTINUING**
27 **POLITICAL COMMITTEE, OR A SLATE TO WHICH THE MEMBER BELONGS OR**
28 **BELONGED DURING THE 36-MONTH PERIOD BEFORE THE FILING OF THE**
29 **APPLICATION WAS MADE BY A POLITICAL ACTION COMMITTEE TO WHICH AN**

1 APPLICANT OR AGENT HAD MADE A PAYMENT;

2 (II) THE APPLICANT OR AGENT MADE THE PAYMENT TO THE
3 POLITICAL ACTION COMMITTEE WITHOUT ANY INTENT TO SUBVERT THE PURPOSES
4 OF THIS SUBTITLE;

5 (III) THE APPLICANT'S OR AGENT'S PAYMENT TO THE POLITICAL
6 ACTION COMMITTEE, AND THE POLITICAL ACTION COMMITTEE'S TRANSFER, ARE
7 DISCLOSED IN AN AFFIDAVIT; AND

8 (IV) THE TRANSFER IS RETURNED TO THE POLITICAL ACTION
9 COMMITTEE BY THE MEMBER, OR THE PAYMENT IS RETURNED TO THE APPLICANT
10 OR AGENT BY THE POLITICAL ACTION COMMITTEE.

11 (C) (1) AFTER AN APPLICATION IS FILED, THE APPLICANT SHALL FILE AN
12 AFFIDAVIT UNDER OATH DISCLOSING TO THE BEST OF THE APPLICANT'S
13 INFORMATION, KNOWLEDGE, AND BELIEF:

14 (I) 1. DURING THE 36-MONTH PERIOD BEFORE THE FILING
15 OF THE APPLICATION AND DURING THE PENDENCY OF THE APPLICATION, WHETHER
16 THE APPLICANT HAS MADE ANY PAYMENT TO A MEMBER'S TREASURER, A MEMBER'S
17 CONTINUING POLITICAL COMMITTEE, OR A SLATE TO WHICH A MEMBER BELONGS
18 OR BELONGED DURING THE 36-MONTH PERIOD BEFORE THE FILING OF THE
19 APPLICATION; OR

20 2. IF A PAYMENT DESCRIBED UNDER ITEM 1 OF THIS
21 ITEM WAS MADE, THE NAME OF THE MEMBER OF THE COUNTY COUNCIL TO WHOSE
22 TREASURER, CONTINUING POLITICAL COMMITTEE, OR SLATE TO WHICH THE
23 MEMBER BELONGS OR BELONGED DURING THE 36-MONTH PERIOD BEFORE THE
24 FILING OF THE APPLICATION THE PAYMENT WAS MADE;

25 (II) 1. DURING THE 36-MONTH PERIOD BEFORE THE FILING
26 OF THE APPLICATION AND DURING THE PENDENCY OF THE APPLICATION, WHETHER
27 THE APPLICANT HAS SOLICITED ANY PERSON OR BUSINESS ENTITY TO MAKE A
28 PAYMENT TO A MEMBER'S TREASURER, A MEMBER'S CONTINUING POLITICAL
29 COMMITTEE, OR A SLATE TO WHICH A MEMBER BELONGS OR BELONGED DURING THE
30 36-MONTH PERIOD BEFORE THE FILING OF THE APPLICATION; OR

1 **2. IF A SOLICITED PAYMENT WAS MADE, THE NAME OF**
2 **THE MEMBER OF THE COUNTY COUNCIL TO WHOSE TREASURER, CONTINUING**
3 **POLITICAL COMMITTEE, OR SLATE TO WHICH THE MEMBER BELONGS OR BELONGED**
4 **DURING THE 36-MONTH PERIOD BEFORE THE FILING OF THE APPLICATION THE**
5 **PAYMENT WAS MADE; AND**

6 **(III) 1. DURING THE 36-MONTH PERIOD BEFORE THE FILING**
7 **OF THE APPLICATION AND DURING THE PENDENCY OF THE APPLICATION, WHETHER**
8 **A MEMBER OF THE APPLICANT'S HOUSEHOLD HAS MADE A PAYMENT TO A MEMBER'S**
9 **TREASURER, A MEMBER'S CONTINUING POLITICAL COMMITTEE, OR A SLATE TO**
10 **WHICH A MEMBER BELONGS OR BELONGED DURING THE 36-MONTH PERIOD**
11 **BEFORE THE FILING OF THE APPLICATION; OR**

12 **2. IF A PAYMENT DESCRIBED UNDER ITEM 1 OF THIS**
13 **ITEM WAS MADE, THE NAME OF THE MEMBER OF THE COUNTY COUNCIL TO WHOSE**
14 **TREASURER, CONTINUING POLITICAL COMMITTEE, OR SLATE TO WHICH A MEMBER**
15 **BELONGS OR BELONGED DURING THE 36-MONTH PERIOD BEFORE THE FILING OF**
16 **THE APPLICATION THE PAYMENT WAS MADE.**

17 **(2) THE APPLICANT SHALL FILE THE AFFIDAVIT AT LEAST 30**
18 **CALENDAR DAYS BEFORE THE ZONING BOARD CONSIDERS THE APPLICATION.**

19 **(3) THE APPLICANT SHALL FILE A SUPPLEMENTAL AFFIDAVIT**
20 **WHENEVER A PAYMENT IS MADE AFTER THE ORIGINAL AFFIDAVIT WAS FILED.**

21 **(4) (I) AN APPLICANT IS NOT REQUIRED TO MAKE ANY**
22 **REPRESENTATIONS IN THE AFFIDAVIT PERTAINING TO THE ACTIONS OF A PERSON**
23 **OTHER THAN THE APPLICANT.**

24 **(II) A PERSON WITH AUTHORITY TO ACT ON BEHALF OF AND**
25 **BIND A BUSINESS ENTITY MAY EXECUTE AN AFFIDAVIT ON BEHALF OF THE BUSINESS**
26 **ENTITY.**

27 **(5) THE ONLY DISCLOSURES REQUIRED IN THE AFFIDAVIT ARE**
28 **THOSE INVOLVING INDIVIDUALS OR BUSINESS ENTITIES THAT WOULD BE SUBJECT**
29 **TO THIS SUBTITLE.**

30 **(D) (1) AN AGENT SHALL FILE AN AFFIDAVIT REQUIRED UNDER**

1 **SUBSECTION (C) OF THIS SECTION IN AN APPLICATION ONLY IF:**

2 **(I) THE AGENT HAS ACTED ON BEHALF OF THE APPLICANT**
3 **WITH REGARD TO THE SPECIFIC APPLICATION; AND**

4 **(II) DURING THE 36-MONTH PERIOD BEFORE THE FILING OF**
5 **THE APPLICATION AND DURING THE PENDENCY OF THE APPLICATION, AND AFTER**
6 **BECOMING AN AGENT OF THE APPLICANT:**

7 **1. THE AGENT HAS MADE A PAYMENT TO A MEMBER OF**
8 **THE COUNTY COUNCIL, A MEMBER'S CONTINUING POLITICAL COMMITTEE, OR A**
9 **SLATE TO WHICH A MEMBER BELONGS OR BELONGED DURING THE 36-MONTH**
10 **PERIOD BEFORE THE FILING OF THE APPLICATION; OR**

11 **2. THE AGENT HAS SOLICITED ANY PERSON TO MAKE A**
12 **PAYMENT TO A MEMBER'S TREASURER, A MEMBER'S CONTINUING POLITICAL**
13 **COMMITTEE, OR A SLATE TO WHICH A MEMBER BELONGS OR BELONGED DURING THE**
14 **36-MONTH PERIOD BEFORE THE FILING OF THE APPLICATION.**

15 **(2) NOTWITHSTANDING PARAGRAPH (1)(II) OF THIS SUBSECTION, AN**
16 **AGENT SHALL DISCLOSE IN THE AFFIDAVIT A PAYMENT MADE BEFORE BECOMING**
17 **AN AGENT IF THE AGENT:**

18 **(I) MADE THE PAYMENT BY PREARRANGEMENT OR IN**
19 **COORDINATION WITH ONE OR MORE APPLICANTS; OR**

20 **(II) ACTED AS AN AGENT AS TO ANY OTHER APPLICATION FILED**
21 **DURING THE 36-MONTH PERIOD.**

22 **(E) (1) EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, A**
23 **CONTRIBUTOR, A MEMBER OF THE COUNTY COUNCIL, OR A POLITICAL ACTION**
24 **COMMITTEE IS SUBJECT TO THIS PART IF A PAYMENT IS MADE BY THE CONTRIBUTOR**
25 **OR A TRANSFER IS MADE BY THE POLITICAL ACTION COMMITTEE TO:**

26 **(I) THE CANDIDATE;**

27 **(II) THE CANDIDATE'S CONTINUING POLITICAL COMMITTEE; OR**

1 **(III) A SLATE TO WHICH THE MEMBER OF THE COUNTY COUNCIL**
2 **BELONGS OR BELONGED DURING THE 36-MONTH PERIOD BEFORE THE FILING OF**
3 **THE APPLICATION.**

4 **(2) THIS PART DOES NOT APPLY TO:**

5 **(I) ANY TRANSFER TO THE CONTINUING POLITICAL**
6 **COMMITTEE OF A MEMBER OF THE COUNTY COUNCIL BY THE CONTINUING**
7 **POLITICAL COMMITTEE OF ANOTHER INDIVIDUAL RUNNING FOR ELECTIVE OFFICE;**
8 **OR**

9 **(II) A PAYMENT OR TRANSFER TO THE HOWARD COUNTY**
10 **COMMITTEE OR THE STATE CENTRAL COMMITTEE OF A POLITICAL PARTY, EVEN IF**
11 **THE CENTRAL COMMITTEE SUPPORTS A CANDIDATE.**

12 **(3) A PERSON MAY NOT MAKE A PAYMENT IN VIOLATION OF THIS**
13 **PART.**

14 **(F) AN APPLICANT OR AGENT MAY NOT TAKE ANY ACTION, DIRECTLY OR**
15 **INDIRECTLY, WITH THE INTENT TO CIRCUMVENT THE INTENT OF THIS PART.**

16 (g) In the enforcement of this part, the administrative assistant to the zoning
17 board or the administrator of the County Council, as appropriate, considering an
18 application shall be subject to the authority of the Howard County Ethics Commission and,
19 unless otherwise directed by the Ethics Commission, shall:

20 (1) receive filings of affidavits and disclosures;

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

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

24 (4) perform ministerial duties necessary to administer this part.

25 (h) (1) Promptly on receipt, the administrative assistant to the zoning board
26 and the administrator of the County Council shall prepare a summary report compiling all
27 affidavits and disclosures filed under this part.

1 (2) The summary report shall be a public record and available for
2 immediate inspection on written request.

3 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
4 October 1, 2019.