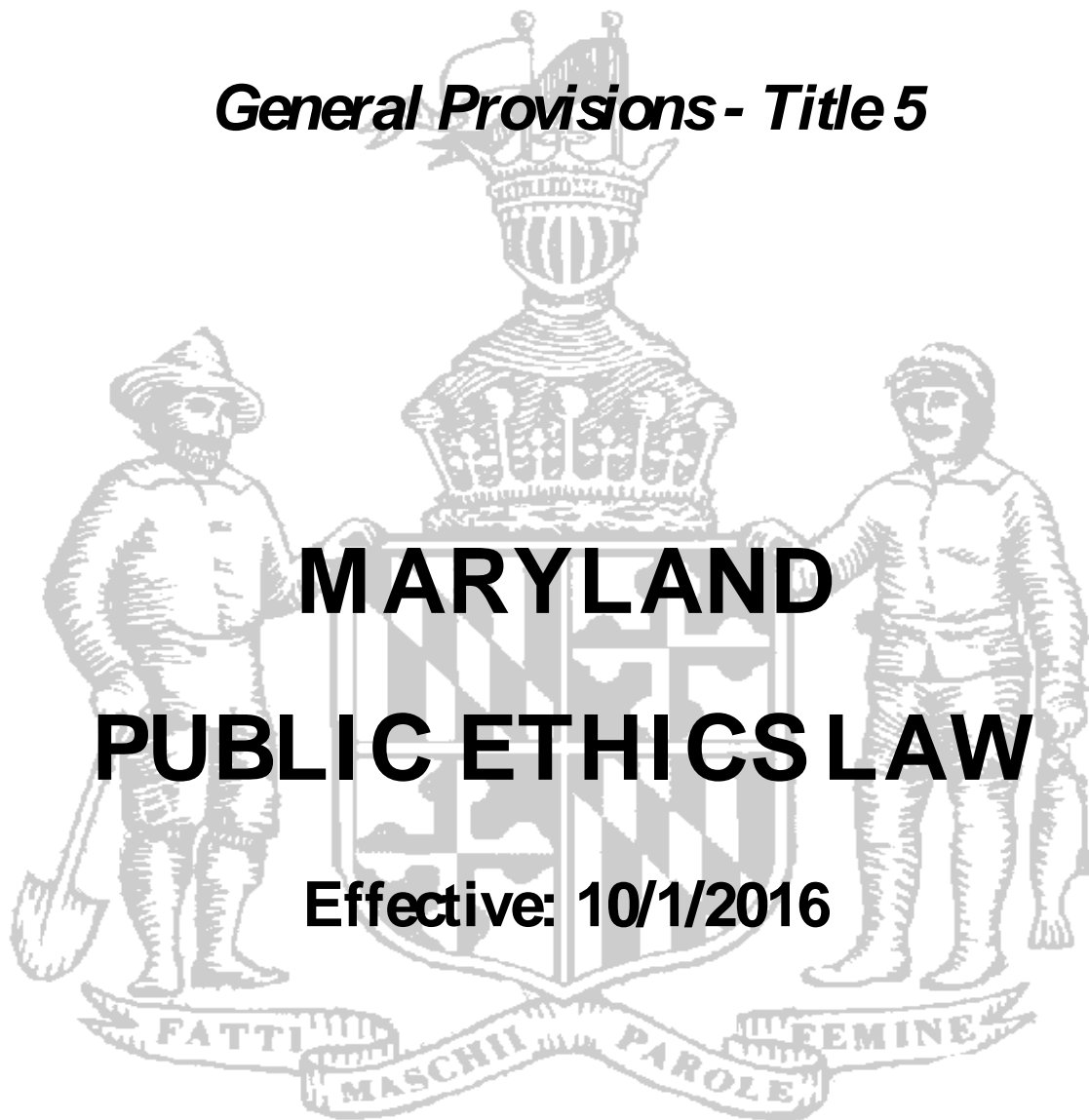


***General Provisions - Title 5***



**MARYLAND  
PUBLIC ETHICS LAW**

**Effective: 10/1/2016**

***(For Information Purpose Only - Not an Official Copy)***



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## Article – General Provisions

### Title 5. Maryland Public Ethics Law.

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#### *Subtitle 1. Definitions; General Provisions.*

#### **5–101. Definitions.**

(a) *In general.* — In this title the following words have the meanings indicated unless:

- (1) the context clearly requires a different meaning; or
- (2) a different definition is adopted for a particular provision.

(b) *Advisory body.* — “Advisory body” means:

(1) a governmental unit designated by the Court of Appeals to give advice with respect to the application or interpretation of Subtitles 5 and 6 of this title to a State official of the Judicial Branch;

(2) the Joint Ethics Committee, for questions arising under Subtitle 5 of this title regarding a State official of the Legislative Branch; or

(3) the Ethics Commission, for all other questions.

(c) *Bicounty commission.* — “Bicounty commission” means:

(1) the Maryland–National Capital Park and Planning Commission;

(2) the Washington Suburban Sanitary Commission; or

(3) the Washington Suburban Transit Commission.

(d) *Board.* — “Board” means an executive unit composed of at least two members, all of whom are appointed and serve on a part–time basis.

(e) *Business entity.* — “Business entity” means a person engaged in business, whether profit or nonprofit, regardless of form.

(f) *Compensation.* — “Compensation” means money or any other valuable thing, regardless of form, received or to be received by a person from an employer for services rendered.

(g) *Employee.* — (1) “Employee” means an individual who is employed:

- (i) by an executive unit;
- (ii) by the Legislative Branch; or
- (iii) in the Judicial Branch.

(2) “Employee” does not include:

- (i) a public official; or
- (ii) a State official.

(h) *Employer.* — “Employer” means an entity that pays or agrees to pay compensation to another entity for services rendered.

(i) *Entity.* — “Entity” means:

- (1) a person; or
- (2) a government or instrumentality of government.

(j) *Entity doing business with the State.* — “Entity doing business with the State” means:

- (1) a regulated lobbyist;
- (2) an entity regulated by the executive unit of the applicable official or employee; or
- (3) an entity that is a party to one or a combination of sales, purchases, leases, or contracts to, from, or with the State, or any unit of the State, involving consideration:
  - (i) of at least \$5,000 on a cumulative basis during the calendar year for which a statement required by Subtitle 6 of this title is filed, regardless of when the consideration is to be paid; and
  - (ii) which shall include, as of the award or execution of a contract or lease, the total consideration committed to be paid under the contract or lease, to the extent ascertainable when awarded or executed, regardless of the period over which payments are to be made.

(k) *Ethics Commission.* — “Ethics Commission” means the State Ethics Commission.

(l) *Executive action.* — “Executive action” means an act:

(1) for which the Executive Branch of State government is responsible; and

(2) that is taken by an official or employee of the Executive Branch.

(m) *Executive unit.* — (1) “Executive unit” means a department, agency, commission, board, council, or other body of State government that:

(i) is established by law; and

(ii) is not in the Legislative Branch or the Judicial Branch of State government.

(2) “Executive unit” includes:

(i) a county health department unless the officials and employees of the department are expressly designated as local officials in § 5–801 of this title;

(ii) the office of the sheriff in each county;

(iii) the office of the State’s Attorney in each county; and

(iv) the Liquor Control Board for Somerset County.

(n) *Financial interest.* — “Financial interest” means:

(1) ownership of an interest as the result of which the owner has received within the past 3 years, is currently receiving, or in the future is entitled to receive, more than \$1,000 per year; or

(2) (i) ownership of more than 3% of a business entity by:

1. an official;

2. an employee; or

3. the spouse of an official or employee; or

(ii) ownership of securities of any kind that represent, or are convertible into, ownership of more than 3% of a business entity by:

1. an official;
2. an employee; or
3. the spouse of an official or employee.

(o) *General Assembly*. — “General Assembly” includes a member, committee, or subcommittee of the General Assembly.

(p) *Gift*. — (1) “Gift” means the transfer of anything of economic value, regardless of form, without adequate and lawful consideration.

(2) “Gift” does not include the solicitation, acceptance, receipt, or regulation of a political contribution that is regulated in accordance with:

- (i) the Election Law Article; or
- (ii) any other State law regulating:
  1. the conduct of elections; or
  2. the receipt of political contributions.

(q) *Governmental unit*. — “Governmental unit” means a department, an agency, a commission, a board, a council, or any other body of State government that is established by law.

(r) *Honorarium*. — (1) “Honorarium” means the payment of money or anything of value for:

(i) speaking to, participating in, or attending a meeting or other function; or

(ii) writing an article that has been or is intended to be published.

(2) “Honorarium” does not include payment for writing a book that has been or is intended to be published.

(s) *Immediate family*. — “Immediate family” means an individual’s spouse

and dependent children.

(t) *Interest.* — (1) “Interest” means a legal or equitable economic interest that is owned or held wholly or partly, jointly or severally, or directly or indirectly, whether or not the economic interest is subject to an encumbrance or condition.

(2) “Interest” does not include:

(i) an interest held in the capacity of agent, custodian, fiduciary, personal representative, or trustee, unless the holder has an equitable interest in the subject matter;

(ii) an interest in a time or demand deposit in a financial institution;

(iii) an interest in an insurance policy, endowment policy, or annuity contract under which an insurer promises to pay a fixed amount of money in a lump sum or periodically for life or a specified period;

(iv) a common trust fund or a trust that forms part of a pension or a profit-sharing plan that:

1. has more than 25 participants; and

2. is determined by the Internal Revenue Service to be a qualified trust under the Internal Revenue Code or a qualified tuition plan established pursuant to Section 529 of the Internal Revenue Code; or

(v) a mutual fund that is publicly traded on a national scale unless the mutual fund is composed primarily of holdings of stocks and interests in a specific sector or area that is regulated by the individual’s governmental unit.

(u) *Joint Ethics Committee.* — “Joint Ethics Committee” means the Joint Committee on Legislative Ethics.

(v) *Legislative action.* — (1) “Legislative action” means an official action or nonaction relating to:

(i) a bill, a resolution, an amendment, a nomination, an appointment, a report, or any other matter within the jurisdiction of the General Assembly; or

(ii) a bill presented to the Governor for signature or veto.

(2) “Legislative action” includes:

- (i) introduction;
- (ii) sponsorship;
- (iii) consideration;
- (iv) debate;
- (v) amendment;
- (vi) passage;
- (vii) defeat;
- (viii) approval; and
- (ix) veto.

(w) *Legislative unit.* — “Legislative unit” means:

- (1) the General Assembly;
- (2) either house of the General Assembly;

(3) a standing committee of the General Assembly, provided that the presiding officer of the House of Delegates and the presiding officer of the Senate shall be deemed an ex officio member of any standing committee of the presiding officer’s chamber; or

(4) a county or regional delegation of members of the General Assembly that is recognized by a presiding officer of the General Assembly.

(x) *Lobbying.* — “Lobbying” means performing any act that requires registration under § 5–701 of this title.

(y) *Local official.* — (1) “Local official”, subject to § 5–801 of this title, means an official, officer, or employee of a county or municipal corporation that the governing body of the county or municipal corporation determines is subject to Subtitle 8, Part II of this title.

(2) “Local official”, subject to § 5–801 of this title, includes each

member and employee of a board of license commissioners that the applicable governing body determines is subject to Subtitle 8, Part II of this title.

(z) *Member of household.* — “Member of household” means:

(1) if sharing an individual’s legal residence, the individual’s:

(i) spouse;

(ii) child;

(iii) ward;

(iv) financially dependent parent; or

(v) other financially dependent relative; or

(2) an individual’s spouse, child, ward, parent, or other relative, over whose financial affairs the individual has legal or actual control.

(aa) *Municipal corporation.* — “Municipal corporation” means a municipality governed by Article XI–E of the Maryland Constitution.

(bb) *Official.* — “Official” means either a State official or a public official.

(cc) *Political contribution.* — “Political contribution” means a contribution as defined in § 1–101 of the Election Law Article.

(dd) *Principal political party.* — “Principal political party” means the State Democratic Party or the State Republican Party.

(ee) *Procurement contract.* — “Procurement contract” has the meaning stated in § 11–101 of the State Finance and Procurement Article.

(ff) *Public official.* — “Public official” means an individual determined to be a public official under § 5–103 of this subtitle.

(gg) *Qualifying relative.* — “Qualifying relative” means a spouse, parent, child, brother, or sister.

(hh) *Regulated lobbyist.* — “Regulated lobbyist” means an entity that is required to register with the Ethics Commission under § 5–701(a) of this title.

(ii) *Respondent.* — “Respondent” means any of the following that is the

subject of a complaint before the Ethics Commission:

- (1) an official;
- (2) an employee;
- (3) a candidate for office as a State official;
- (4) an entity subject to Subtitle 7 of this title; or
- (5) an entity subject to § 5–512 of this title.

(jj) *School board.* — “School board” means a county board of education or, in Baltimore City, the Board of School Commissioners.

(kk) *School system.* — “School system” means the educational system under the authority of a school board.

(ll) *State official.* — “State official” means:

- (1) a constitutional officer or officer–elect in an executive unit;
- (2) a member or member–elect of the General Assembly;
- (3) a judge or judge–elect of a court under Article IV, § 1 of the Maryland Constitution;
- (4) a judicial appointee as defined in Maryland Rule 16–814;
- (5) a State’s Attorney;
- (6) a clerk of the circuit court;
- (7) a register of wills; or
- (8) a sheriff.

(mm) *Superintendent.* — “Superintendent” means a county superintendent as defined in § 1–101 of the Education Article.

**5–102. Legislative findings; policy; liberal construction.**

(a) *Legislative findings.* — (1) The General Assembly of Maryland, recognizing that our system of representative government is dependent on



maintaining the highest trust by the people in their government officials and employees, finds and declares that the people have a right to be assured that the impartiality and independent judgment of those officials and employees will be maintained.

(2) It is evident that the people's confidence and trust are eroded when the conduct of the State's business is subject to improper influence or even the appearance of improper influence.

(b) *Policy.* — For the purpose of guarding against improper influence, the General Assembly enacts this Maryland Public Ethics Law to require certain government officials and employees to disclose their financial affairs and to set minimum ethical standards for the conduct of State and local business.

(c) *Liberal construction of title.* — The General Assembly intends that this title, except its provisions for criminal sanctions, be construed liberally to accomplish this purpose.

### **5–103. Designation of individuals as public officials.**

(a) *In general.* — The determination of whether an individual is a public official for the purposes of this title shall be made in accordance with this section.

(b) *Public officials of executive units.* — Except as provided in subsection (f) of this section, the following individuals in executive units are public officials:

(1) an individual who receives compensation at a rate equivalent to at least State grade level 16, or who is appointed to a board, if the Ethics Commission determines under § 5–208 of this title that:

(i) the individual, acting alone or as a member of an executive unit, has decision-making authority or acts as a principal advisor to an individual with decision-making authority:

1. in making State policy in an executive unit; or
2. in exercising quasi-judicial, regulatory, licensing, inspecting, or auditing functions; and

(ii) the individual's duties are not essentially administrative and ministerial;

(2) any other individual in an executive unit if the Ethics Commission determines that the individual, acting alone or as a member of the

executive unit, has decision-making authority or acts as a principal advisor to an individual with decision-making authority in drafting specifications for, negotiating, or executing contracts that commit the State or an executive unit to spend more than \$10,000 in a year;

(3) a member, appointee, or employee of the Maryland Stadium Authority;

(4) a member, appointee, or employee of the Canal Place Preservation and Development Authority; and

(5) a member of the Emergency Medical Services Board.

(c) *Public officials of Legislative Branch.* — Except as provided in subsection (f) of this section, an individual in the Legislative Branch is a public official if the individual:

(1) receives compensation at a rate equivalent to at least State grade level 16; and

(2) is designated a public official by order of the presiding officers of the General Assembly.

(d) *Public officials of Judicial Branch.* — (1) (i) In this paragraph, “individual in the Judicial Branch” includes an individual who is:

1. employed in the office of a clerk of court;
2. paid by a county to perform services in an orphans’ court or circuit court;
3. employed by the Attorney Grievance Commission;
4. employed by the State Board of Law Examiners; or
5. employed by the Court of Appeals Standing Committee on Rules of Practice and Procedure.

(ii) Except as provided in paragraph (2) of this subsection or subsection (f) of this section, an individual in the Judicial Branch is a public official if the individual receives compensation at a rate equivalent to at least State grade level 16.

(2) The Ethics Commission may exclude the individuals in a position in the Judicial Branch from inclusion as public officials under paragraph (1)(ii) of this subsection:

(i) on the recommendation of the State Court Administrator;  
and

(ii) if the Ethics Commission determines that the position does not have policy, policy advice, quasi-judicial, or procurement functions.

(e) *Bicounty commission members.* — A member of a bicounty commission is a public official.

(f) *Exceptions.* — The following are not public officials:

(1) a State official;

(2) an individual employed on a contractual basis unless the individual is:

(i) employed on a full-time basis for more than 6 months;  
and

(ii) designated as a public official under subsection (b)(1) or (c) of this section; and

(3) a part-time or full-time faculty member at a State institution of higher education:

(i) as to subsection (b)(2) of this section, only when the individual is acting in the capacity of a faculty member; and

(ii) as to any other provision of this section, unless the individual also:

1. is employed in another position that causes the individual to be designated as a public official; or

2. directly procures, directly influences, or otherwise directly affects the formation or execution of any State contract, purchase, or sale, as established by regulations adopted by the Ethics Commission and approved by the Joint Committee on Administrative, Executive, and Legislative Review.

#### **5-104. Administration of title.**

(a) *In general.* — Except as provided in subsections (b) and (c) of this section, this title shall be administered and implemented by the Ethics Commission.

(b) *Joint Ethics Committee.* — *Subtitle 5.* — The Joint Ethics Committee, acting as an advisory body, shall administer and implement Subtitle 5 of this title as it applies to members of the General Assembly.

(c) *Commission on Judicial Disabilities, Judicial Ethics Committee, or other designated body.* — *Subtitles 5 and 6.* — The Commission on Judicial Disabilities, the Judicial Ethics Committee, or another body designated by the Court of Appeals, acting as an advisory body, shall administer and implement Subtitles 5 and 6 of this title as those subtitles apply to State officials of the Judicial Branch.

#### **5-105. Other laws.**

(a) *In general.* — If another provision of law relating to conflicts of interest, financial disclosure, or lobbying is more stringent than this title, the other provision shall apply.

(b) *Exception.* — Title 3, Subtitle 1 of the Public Safety Article does not apply to activities carried out by the Ethics Commission under this title.

#### *Subtitle 2. State Ethics Commission.*

#### **5-201. Established.**

There is a State Ethics Commission.

#### **5-202. Membership.**

(a) *Composition; appointment of members.* — (1) The Ethics Commission consists of five members.

(2) The Governor shall appoint:

(i) with the advice and consent of the Senate, three members, at least one of whom shall be a member of the principal political party of which the Governor is not a member;

and (ii) one member nominated by the President of the Senate;

(iii) one member nominated by the Speaker of the House.

(3) The Governor may reject a nominee of the President or of the Speaker only for cause.

(4) If the Governor rejects a nominee under paragraph (3) of this subsection, the appropriate presiding officer shall nominate another individual.

(5) A vacancy shall be filled in a manner consistent with this subsection.

(b) *Qualifications of members.* — A member of the Ethics Commission may not:

(1) hold elected or appointed office in, be an employee of, or be a candidate for office in:

(i) the federal government;

(ii) the State government;

(iii) a municipal corporation, county, or multicounty agency of the State; or

(iv) a political party; or

(2) be a regulated lobbyist.

(c) *Oath.* — Before taking office, each appointee to the Ethics Commission shall take the oath required by Article I, § 9 of the Maryland Constitution.

(d) *Tenure; vacancies.* — (1) The term of a member is 5 years.

(2) The terms of members are staggered as required by the terms in effect for members of the Ethics Commission on October 1, 2013.

(3) A member may serve no more than two consecutive 5-year terms.

(4) A member who is appointed after a term has begun serves for the rest of the term.

(5) At the end of a term, a member may continue to serve until a successor is appointed and qualifies.

(e) *Removal.* — (1) The Governor may remove a member for:

(i) neglect of duty;

(ii) misconduct in office;

(iii) a disability that makes the member unable to discharge the powers and duties of office; or

(iv) a violation of this title.

(2) Before removing a member, the Governor shall give the member:

(i) written notice of the charges; and

(ii) an opportunity to answer the charges.

#### **5-203. Officers.**

(a) *Chair.* — The Ethics Commission shall elect a chair from among its members.

(b) *Term of Office.* — (1) The term of the chair is 1 year.

(2) The chair may be reelected.

#### **5-204. Quorum; meetings; compensation; staff.**

(a) *Quorum.* — (1) A majority of the authorized membership of the Ethics Commission is a quorum.

(2) The Ethics Commission may act only on the affirmative vote of at least a majority of its authorized membership.

(b) *Meetings.* — The Ethics Commission shall meet at the call of the chair or a majority of the members then serving.

(c) *Compensation and reimbursement for expenses.* — Each member of the Ethics Commission is entitled to:

- (1) compensation in accordance with the State budget; and
- (2) reimbursement for reasonable and necessary expenses incurred in the discharge of official duties.

(d) *Staff.* — (1) The Ethics Commission shall:

(i) appoint to serve at its pleasure:

1. an executive director;
2. a general counsel; and
3. a staff counsel; and

(ii) have other staff, including such counsel as may be required to advise persons who are subject to the jurisdiction of the Ethics Commission, in accordance with the State budget.

(2) The general counsel and the staff counsel of the Ethics Commission shall be individuals admitted to practice law in the State.

(e) *Assistance from Attorney General and Comptroller.* — The Ethics Commission may ask the Attorney General or Comptroller for professional assistance to assist in the performance of the Commission's functions.

#### **5-205. Duties.**

(a) *In general.* — The Ethics Commission shall:

(1) administer the provisions of this title, except as otherwise expressly provided in this title;

(2) create and provide forms for each document required by this title;

(3) retain as a public record each document filed with the Commission for at least 4 years after receipt;

(4) review periodically the adequacy of public ethics laws;

(5) (i) review each statement and report filed in accordance with Subtitle 6 or Subtitle 7 of this title; and

(ii) notify officials and employees submitting documents under Subtitle 6 of this title of any omissions or deficiencies; and

(6) publish and make available to persons subject to this title, and to the public, information that explains the provisions of this title, the duties imposed by it, and the means for enforcing it.

(b) *Model provisions for local governments and school boards.* — (1) The Ethics Commission shall adopt by regulation model provisions for local governments and school boards on:

- (i) conflicts of interest;
- (ii) financial disclosure; and
- (iii) regulation of lobbying.

(2) Model provisions adopted under paragraph (1) of this subsection may be:

- (i) adopted by any local jurisdiction or school board; or
- (ii) imposed on a local jurisdiction or school board in accordance with Subtitle 8 of this title.

(c) *List of entities doing business with the State.* — (1) The Ethics Commission shall:

(i) compile annually an alphabetized list of entities doing business with the State during the preceding calendar year; and

(ii) make the list available to individuals required to file a statement under Subtitle 6 of this title.

(2) The list prepared under paragraph (1) of this subsection shall be available for public inspection by March 1 of each year.

(3) On request of the Ethics Commission, an official or a unit of State government shall provide to the Commission in a timely manner any information necessary for the Commission to perform its duties under this subsection.



(d) *Training course for public officials.* — (1) The Ethics Commission shall provide a training course of at least 2 hours on the requirements of the Maryland Public Ethics Law for an individual who:

(i) fills a vacancy in a position that has been identified as a public official position under § 5–103 of this title; or

(ii) serves in a position identified as a public official position under § 5–103 of this title.

(2) The individual shall complete the training course within 6 months of:

(i) filling a vacancy; or

(ii) a position being identified as a public official position.

(3) The training requirement under this subsection does not apply to an individual who:

(i) is a public official only as a member of a commission, task force, or similar entity; or

(ii) has completed a training course provided by the Ethics Commission while serving in another public official position.

(e) *Training course for regulated lobbyists.* — (1) (i) The Ethics Commission shall provide a training course for regulated lobbyists and prospective regulated lobbyists at least twice each year on the provisions of the Maryland Public Ethics Law relevant to regulated lobbyists.

(ii) One training course shall be held each January.

(2) When a person initially registers as a regulated lobbyist, the Ethics Commission shall provide the person with information on the provisions of the Maryland Public Ethics Law relevant to regulated lobbyists.

(f) *Reports.* — Subject to § 2–1246 of the State Government Article, the Ethics Commission shall submit to the General Assembly:

(1) an annual report on its activities; and

(2) based on its investigations and studies, other special reports with recommendations for legislation as may be appropriate.

### **5–206. Regulations.**

The Ethics Commission may adopt regulations to implement this title.

### **5–207. Oaths and subpoenas.**

(a) *In general.* — The Ethics Commission and its staff counsel each may:

- (1) administer oaths; and
- (2) issue subpoenas for the attendance of witnesses to testify or to produce other evidence.

(b) *Judicial enforcement.* — A subpoena issued under subsection (a) of this section may be enforced judicially.

### **5–208. Determination of public official in executive agency.**

(a) *Determination of Ethics Commission.* — With advice from the Secretary of Budget and Management and in accordance with § 5–103 of this title, the Ethics Commission shall determine whether an individual in an executive unit is a public official for the purposes of this title.

(b) *Secretary of Budget and Management to provide advice.* — The Secretary of Budget and Management shall provide advice under subsection (a) of this section to the Ethics Commission:

- (1) annually; and
- (2) at any other time on request of the Ethics Commission.

### **5–209. Exemptions from title.**

(a) *In general.* — The Ethics Commission may exempt from this title or modify the requirements of this title for a board, a member of a board, or a municipal corporation if the Ethics Commission finds that, because of the nature of the board or the size of the municipal corporation, the application of this title to that board, member, or municipal corporation:

- (1) would be an unreasonable invasion of privacy;
- (2) would reduce significantly the availability of qualified individuals for public service; and

(3) is not necessary to preserve the purposes of this title.

(b) *Request by executive unit involved.* — Subject to § 5–502(d) of this title, the Ethics Commission may grant an exemption to a board or member of a board only on written request of the executive unit of which the board is a part.

(c) *Availability of records.* — Notwithstanding any other provision of this title, the records of the Ethics Commission in any matter in which an exemption is granted under this section shall be available for public inspection.

### **5–210. Lobbyist Registration Fund.**

(a) *Fund established.* — (1) There is a Lobbyist Registration Fund.

(2) The Fund consists of all fees collected under Subtitle 7 of this title.

(b) *Fund to be nonlapsing.* — (1) The Fund is a continuing, nonlapsing fund.

(2) Any balance remaining in the Fund at the end of any fiscal year shall revert to the General Fund of the State.

(c) *Administration of Fund.* — (1) (i) The State Treasurer shall hold the Fund separately.

(ii) The Comptroller shall account for the Fund.

(2) The Fund shall be invested and reinvested in the same manner as other State funds.

(3) Expenditures from the Fund shall be made in accordance with an appropriation approved by the General Assembly in the annual budget.

(d) *Uses of Fund.* — The Fund shall be used to defray the expenses of administering Subtitle 7 of this title.

### *Subtitle 3. Advisory Opinions.*

### **5–301. Request for advisory opinion; informal advice.**

(a) *Advisory opinion.* — (1) Subject to subsection (b) of this section, on written request of an entity subject to this title, the appropriate advisory body shall

issue an advisory opinion regarding the application of this title.

(2) On written request of any other entity, the appropriate advisory body may issue an advisory opinion.

(b) *Informal advice.* — (1) The appropriate advisory body may issue informal advice instead of an advisory opinion.

(2) Information related to informal advice provided under this subsection shall remain confidential and is not subject to the requirements of § 5–303 of this subtitle.

### **5–302. Issuance.**

The Ethics Commission shall issue an advisory opinion required under § 5–301(a) of this subtitle not more than 60 days after receiving a request, or more promptly if circumstances require.

### **5–303. Publication.**

(a) *Requirements.* — Each advisory opinion shall be:

(1) in writing; and

(2) published in the Maryland Register, subject to subsection (b) of this section.

(b) *Confidentiality.* — (1) Before an advisory opinion may be made public, the advisory body shall delete:

(i) the name of the entity that is the subject of the opinion; and

(ii) to the fullest extent possible, any other information that may identify the entity.

(2) The identity of the entity that is the subject of the opinion may not be revealed.

### **5–304. Further opinion by Joint Ethics Committee.**

(a) *Issuance.* — If the Ethics Commission issues an advisory opinion about a State official of the Legislative Branch as to a question arising under Subtitle 6 of this title, and if requested by the State official, the Joint Ethics Committee shall

issue an advisory opinion on the matter in accordance with this subtitle.

(b) *Joint Ethics Committee opinion to prevail.* — The opinion of the Joint Ethics Committee prevails to the extent of any inconsistency.

*Subtitle 4. Procedures for Complaint of Violation of Title.*

**5-401. Complaints — Filing; requirements.**

(a) *Commencement of action.* — (1) Any entity may file with the Ethics Commission a written complaint alleging a violation of this title.

(2) A complaint filed under this subsection shall be:

- (i) signed; and
- (ii) made under oath.

(b) *On motion of Ethics Commission.* — The Ethics Commission on its own motion may issue a complaint alleging a violation of this title.

(c) *Copy to respondent.* — The Ethics Commission shall promptly transmit a copy of the complaint to the respondent.

**5-402. Complaints — Referral.**

(a) *In general.* — For further action after the filing of a complaint, the Ethics Commission promptly shall refer the complaint to:

(1) the Commission on Judicial Disabilities, if the complaint concerns a judge of a court established under Article IV, § 1 of the Maryland Constitution;

(2) the Joint Ethics Committee, if the complaint concerns:

- (i) a State official of the Legislative Branch; and
- (ii) a violation of Subtitle 5 of this title; or

(3) the staff counsel, if the complaint concerns any other entity.

(b) *Assistance from Ethics Commission.* — On request of the Commission on Judicial Disabilities or the Joint Ethics Committee, the Ethics Commission shall provide any information or assistance that is not prohibited by law.

**5-403. Complaints — Retention by Ethics Commission.**

(a) *Evidence.* — As to a complaint retained by the Ethics Commission under § 5-402(b) of this subtitle, the staff counsel shall collect and submit to the Ethics Commission evidence relating to each violation of this title alleged in the complaint.

(b) *Opportunity to cure.* — (1) Before submitting the evidence to the Ethics Commission, the staff counsel shall notify the complainant and the respondent.

(2) The Ethics Commission shall dismiss the complaint in a signed order if:

(i) the respondent, within 15 days after receiving the notice, takes any action that may be available to cure each alleged violation; and

(ii) the Ethics Commission finds that dismissal is not contrary to the purposes of this title.

(3) If the complaint is dismissed under this subsection, the Ethics Commission promptly shall send a copy of the order to the complainant and the respondent.

(c) *Dismissal after preliminary review.* — If the Ethics Commission determines that the evidence submitted by the staff counsel does not merit further proceedings, the Ethics Commission shall:

(1) dismiss the complaint in a signed order; and

(2) promptly send a copy of the order to the complainant and the respondent.

(d) *Further proceedings.* — If a complaint is not dismissed under subsection (b) or (c) of this section, the Ethics Commission shall proceed to a hearing on the complaint.

**5-404. Complaints — Hearing.**

(a) *Hearing.* — (1) A hearing on a complaint shall be conducted under Title 10, Subtitle 2 of the State Government Article insofar as that subtitle is consistent with this title.

(2) In preparation for the hearing, the respondent may use the subpoena power of the Ethics Commission.

(b) *Presentation of evidence.* — At the hearing, the staff counsel:

(1) shall present to the Ethics Commission all available evidence relating to each alleged violation of this title; and

(2) may recommend any disposition of the complaint that appears appropriate to the staff counsel.

(c) *Representation by counsel.* — The respondent may be represented by counsel.

#### **5-405. Complaints — Disposition.**

(a) *Determinations after hearing.* — After the Ethics Commission considers all of the evidence presented at the hearing, the Ethics Commission shall make findings of fact and conclusions of law with respect to each alleged violation.

(b) *Finding of no violation.* — If the Ethics Commission determines that the respondent has not violated this title, the Ethics Commission shall:

(1) dismiss the complaint in a signed order; and

(2) promptly send a copy of the order to the complainant and the respondent.

(c) *Finding of violation; sanctions Generally.* — If the Ethics Commission determines that the respondent has violated any provision of this title, the Ethics Commission may:

(1) issue an order of compliance directing the respondent to cease and desist from the violation;

(2) issue a reprimand; or

(3) recommend to the appropriate authority other appropriate discipline of the respondent, including censure or removal, if that discipline is authorized by law.

(d) *Finding of violation; sanctions — Subtitle 7.* — If the Ethics Commission determines that a respondent has violated Subtitle 7 of this title, the Ethics Commission may:

(1) require a respondent who is a regulated lobbyist to file any additional reports or information that reasonably relates to information required under §§ 5–703 and 5–704 of this title;

(2) impose a fine not exceeding \$5,000 for each violation; or

(3) subject to subsection (e) of this section, suspend the registration of a regulated lobbyist.

(e) *Suspension or revocation of registration.* — (1) If the Ethics Commission determines it necessary to protect the public interest and the integrity of the governmental process, the Ethics Commission may issue an order to:

(i) suspend the registration of an individual regulated lobbyist if the Ethics Commission determines that the individual regulated lobbyist:

1. has knowingly and willfully violated Subtitle 7 of this title; or

2. has been convicted of a criminal offense arising from lobbying activities; or

(ii) revoke the registration of an individual regulated lobbyist if the Ethics Commission determines that, based on acts arising from lobbying activities, the individual regulated lobbyist has been convicted of bribery, theft, or other crime involving moral turpitude.

(2) If the Ethics Commission suspends the registration of an individual regulated lobbyist under paragraph (1) of this subsection, the individual regulated lobbyist may not engage in lobbying for compensation for a period, not to exceed 3 years, that the Ethics Commission determines as to that individual regulated lobbyist is necessary to satisfy the purposes of this subsection.

(3) If the Ethics Commission revokes the registration of an individual regulated lobbyist under paragraph (1) of this subsection, the individual regulated lobbyist may not engage in lobbying for compensation.

(4) If the Ethics Commission initiates a complaint based on a violation or conviction described in paragraph (1) of this subsection, the Ethics Commission shall initiate the complaint within 2 years after the earlier of:

(i) the Ethics Commission’s knowledge of the violation; or



(ii) the date the conviction becomes final.

(5) The termination or expiration of the registration of an individual regulated lobbyist does not limit the authority of the Ethics Commission to issue an order under this subsection.

(f) *Reinstatement.* — (1) An individual whose registration as an individual regulated lobbyist is revoked or suspended under subsection (e) of this section may apply to the Ethics Commission for reinstatement.

(2) The Ethics Commission may reinstate the registration of an individual whose registration as a regulated lobbyist has been revoked or suspended under subsection (e) of this section if the Ethics Commission determines that reinstatement of the individual would not be detrimental to the public interest and the integrity of the governmental process, based on:

(i) the nature and circumstances of the original misconduct or violation leading to revocation or suspension;

(ii) the individual's subsequent conduct and reformation; and

(iii) the present ability of the individual to comply with the ethics law.

(g) *Penalties for late filing.* — (1) If the respondent is a regulated lobbyist, for each report required under Subtitle 7 of this title that is filed late, the respondent shall pay a fee of \$10 for each late day, not to exceed a total of \$1,000.

(2) If the respondent is an official, for each financial disclosure statement found to have been filed late, the respondent shall pay a fee of \$5 for each late day, not to exceed a total of \$500.

(h) *Distribution of penalties, fines, or fees.* — A penalty, fine, or fee assessed under this section shall be distributed to the Fair Campaign Financing Fund established under § 15–103 of the Election Law Article.

#### **5–406. Judicial Review.**

(a) *In general.* — If the respondent is aggrieved by a final order of the Ethics Commission, the respondent may seek judicial review as provided in Title 10, Subtitle 2 of the State Government Article.

(b) *Stay pending judicial review.* — (1) The order is stayed automatically until the time for seeking judicial review has expired.

(2) (i) The filing of a petition for judicial review does not automatically stay the enforcement of the order.

(ii) Except as otherwise provided by law, the Ethics Commission or the reviewing court may stay the enforcement of the order, under terms the Ethics Commission considers proper.

(c) *Judicial relief for Ethics Commission.* — The Ethics Commission may seek judicial enforcement and other relief as provided under Subtitle 9 of this title.

#### **5–407. Confidentiality.**

(a) *In general.* — Notwithstanding any other law, and except as provided in subsections (b) and (c) of this section, after a complaint is filed:

(1) the proceedings, meetings, and activities of the Ethics Commission and its employees relating to the complaint are confidential; and

(2) information relating to the complaint, including the identity of the complainant and respondent, may not be disclosed by:

(i) the Ethics Commission;

(ii) the staff of the Ethics Commission;

(iii) the complainant; or

(iv) the respondent.

(b) *Duration.* — Except as provided in subsection (c) of this section, the restrictions in subsection (a) of this section apply unless:

(1) the matter is referred for prosecution; or

(2) the Ethics Commission finds a violation of this title.

(c) *Disclosures allowed.* — (1) The Ethics Commission may release any information if the respondent agrees in writing to the release.

(2) On request of the respondent, the Ethics Commission shall disclose the identity of the complainant to the respondent.

#### **5–408. Referral to prosecuting authority.**

(a) *Referral for prosecution.* — If the Ethics Commission, while considering a complaint, finds that there are reasonable grounds to believe that the respondent may have committed a criminal offense, the Ethics Commission promptly shall refer the matter to an appropriate prosecuting authority.

(b) *Evidence.* — The Ethics Commission shall make available to the prosecuting authority all pertinent evidence under the Ethics Commission's control.

#### **5-409. Retention of documents by entities subject to title.**

(a) *In general.* — An entity that is required to file a report, statement, or record under this title shall obtain each account, bill, receipt, book, paper, or other document necessary to complete and substantiate the report or statement.

(b) *Period of retention.* — The entity shall retain the document for 3 years after:

(1) the date the report, statement, or record was filed; or

(2) if the report, statement, or record was not filed, the date the report, statement, or record was required to be filed.

(c) *Inspection by Ethics Commission.* — On request of the Ethics Commission, and after reasonable notice, the documents shall be available for inspection by the Ethics Commission.

#### *Subtitle 5. Conflicts of Interest.*

##### Part I. General Provisions.

#### **5-501. Restrictions on participation.**

(a) *In general.* — Except as otherwise provided in subsection (c) of this section, an official or employee may not participate in a matter if:

(1) the official or employee or a qualifying relative of the official or employee has an interest in the matter and the official or employee knows of the interest; or

(2) any of the following is a party to the matter:

(i) a business entity in which the official or employee has a direct financial interest of which the official or employee reasonably may be expected to know;

(ii) a business entity, including a limited liability company or a limited liability partnership, of which any of the following is an officer, a director, a trustee, a partner, or an employee:

1. the official or employee; or
2. if known to the official or employee, a qualifying relative of the official or employee;

(iii) a business entity with which any of the following has applied for a position, is negotiating employment, or has arranged prospective employment:

1. the official or employee; or
2. if known to the official or employee, a qualifying relative of the official or employee;

(iv) if the contract reasonably could be expected to result in a conflict between the private interest and the official State duties of the official or employee, a business entity that is a party to a contract with:

1. the official or employee; or
2. if known to the official or employee, a qualifying relative of the official or employee;

(v) a business entity, either engaged in a transaction with the State or subject to regulation by the official's or employee's governmental unit, in which a direct financial interest is owned by another business entity if the official or employee:

1. has a direct financial interest in the other business entity; and
2. reasonably may be expected to know of both financial interests; or

(vi) a business entity that:

1. the official or employee knows is a creditor or an obligee of the official or employee, or of a qualifying relative of the official or employee, with respect to a thing of economic value; and

2. as a creditor or an obligee, is in a position to affect directly and substantially the interest of the official, employee, or qualifying relative.

(b) *Exceptions.* — (1) The prohibitions of subsection (a) of this section do not apply if participation is allowed:

(i) as to officials and employees subject to the authority of the Ethics Commission, by regulation of the Ethics Commission;

(ii) by the opinion of an advisory body; or

(iii) by another provision of this subtitle.

(2) This section does not prohibit participation by an official or employee that is limited to the exercise of an administrative or ministerial duty that does not affect the decision or disposition with respect to the matter.

(c) *Participation notwithstanding conflict.* — An official or employee who otherwise would be disqualified from participation under subsection (a) of this section shall disclose the nature and circumstances of the conflict, and may participate or act, if:

(1) the disqualification would leave a body with less than a quorum capable of acting;

(2) the disqualified official or employee is required by law to act; or

(3) the disqualified official or employee is the only individual authorized to act.

#### **5-502. Employment or financial interests — General restriction.**

(a) *General Assembly members exempted.* — This section does not apply to members of the General Assembly.

(b) *Prohibitions.* — Except as provided in subsections (c) and (d) of this section, an official or employee may not:

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

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

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

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

(c) *Exceptions.* — The prohibitions of subsection (b) of this section do not apply:

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

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

(ii) the financial interest is disclosed;

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

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

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

(d) *Exemption under extraordinary circumstances.* — (1) Subject to paragraph (2) of this subsection, the Ethics Commission may exempt a public official of an executive unit or an employee of an executive unit from the prohibitions of subsection (b) of this section if the Ethics Commission determines that:

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

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

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

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

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

1. in extraordinary situations; and

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

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

#### **5-503. Employment restriction — Entities contracting with State.**

(a) *General Assembly members exempted.* — This section does not apply to members of the General Assembly.

(b) *Employment prohibited.* — An official or employee may not be employed by an entity that is a party to a contract that binds or purports to bind the State if:

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

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

#### **5-504. Employment restriction – Representation or assistance.**

(a) *Contingent compensation.* — (1) This subsection does not apply to members of the General Assembly.

(2) Except as provided in paragraph (3) of this subsection, an official or employee may not, for contingent compensation, assist or represent a party in any matter before or involving any unit of the State or a political subdivision of the State.

(3) Paragraph (2) of this subsection does not apply to assistance to or representation of a party:

(i) in a judicial or quasi-judicial proceeding, including a proceeding before an administrative law judge in the Office of Administrative Hearings, or a matter preliminary, incidental, or collateral to a judicial or quasi-judicial proceeding; or

(ii) in a matter before or involving the Workers' Compensation Commission, the Maryland Automobile Insurance Fund, or the Criminal Injuries Compensation Board.

(b) *General Assembly member — Compensated representation or assistance.* — (1) Except as provided in paragraph (2) of this subsection, a member of the General Assembly may not, for compensation, assist or represent a party in any matter before or involving any unit of the State or a political subdivision of the State.

(2) Paragraph (1) of this subsection does not apply to assistance to or representation of a party:

(i) in matters relating to the performance of ministerial acts by a governmental unit;

(ii) in matters involving the member's regular business, employment, or profession, in which contact with a governmental unit:

1. is an incidental part of the business, employment, or profession;

2. is made in the manner that is customary for persons in that business, employment, or profession; and

3. is not for contingent compensation;

(iii) in a judicial or quasi-judicial proceeding, including a proceeding before an administrative law judge in the Office of Administrative Hearings, or a matter preliminary, incidental, or collateral to a judicial or quasi-judicial proceeding;



(iv) in a matter before or involving the Workers' Compensation Commission, the Maryland Automobile Insurance Fund, or the Criminal Injuries Compensation Board; or

(v) in a matter in which the assistance or representation, other than for contingent compensation, was commenced by the member of the General Assembly before:

1. the member filed a certificate of candidacy for election to the General Assembly at a time when the member was not an incumbent; or

2. if the member was appointed to fill a vacancy, the date of appointment.

(c) *General Assembly member — Representation in procurement or regulations matters.* — (1) A member of the General Assembly may not assist or represent a person, including himself or herself, for compensation before a State or local governmental agency in any matter involving:

(i) procurement; or

(ii) the adoption of regulations.

(2) Paragraph (1) of this subsection does not apply to an administrative proceeding conducted in accordance with Title 10, Subtitle 2 of the State Government Article.

(d) *Former official or employee.* — (1) Except for a former member of the General Assembly, who shall be subject to the restrictions provided under paragraph (2) of this subsection, a former official or employee may not assist or represent a party, other than the State, in a case, a contract, or any other specific matter for compensation if:

(i) the matter involves State government; and

(ii) the former official or employee participated significantly in the matter as an official or employee.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, until the conclusion of the next regular session that begins after the member leaves office, a former member of the General Assembly may not assist or represent another party for compensation in a matter that is the subject of legislative action.

(ii) The limitation under subparagraph (i) of this paragraph on representation by a former member of the General Assembly does not apply to the former member's representation of a municipal corporation, county, or State governmental entity.

(e) *Official or employee in Judicial Branch.* — Notwithstanding subsection (a)(3) of this section or § 5–502 of this subtitle, a full-time official or employee in the Judicial Branch may not represent a party before a court or unit of the Judicial Branch except in the discharge of official duties.

### **5–505. Gifts or honoraria.**

(a) *Gift solicitation prohibited.* — (1) An official or employee may not solicit any gift.

(2) An official may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual regulated lobbyist described in § 5–701(a)(1) of this title.

(b) *Gift acceptance prohibited.* — (1) In this subsection, “entity” does not include a governmental unit.

(2) Except as provided in subsection (c) of this section, an official or employee may not knowingly accept a gift, directly or indirectly, from an entity that the official or employee knows or has reason to know:

(i) does or seeks to do any business of any kind, regardless of amount, with the official's or employee's governmental unit;

(ii) engages in an activity that is regulated or controlled by the official's or employee's governmental unit;

(iii) has a financial interest that may be affected substantially and materially, in a manner distinguishable from the public generally, by the performance or nonperformance of the official's or employee's official duties; or

(iv) is a regulated lobbyist with respect to matters within the jurisdiction of the official or employee.

(c) *Exceptions.* — (1) Notwithstanding subsection (b) of this section, an official or employee may accept a gift listed in paragraph (2) of this subsection unless:

(i) the gift would tend to impair the impartiality and independent judgment of the official or employee; or

(ii) as to a gift of significant value:

1. the gift would give the appearance of impairing the impartiality and independent judgment of the official or employee; or

2. the official or employee believes or has reason to believe that the gift is designed to impair the impartiality and independent judgment of the official or employee.

(2) Subject to paragraph (1) of this subsection, subsection (b) of this section does not apply to:

(i) 1. except for officials of the Legislative Branch, meals or beverages received and consumed by the official or employee in the presence of the donor or sponsoring entity;

2. for officials of the Legislative Branch, food or beverages received and consumed by the official in the presence of the donor or sponsoring entity as part of a meal or reception to which all members of a legislative unit were invited;

3. for a member of the General Assembly, food or beverages received from a donor or sponsoring entity, other than an individual regulated lobbyist described in § 5-701(a)(1) of this title, during a period when the General Assembly is not in session, at a location that is within a county that contains the member's district, provided that the donor or sponsoring entity is located within a county that contains the member's district; or

4. for a member of the General Assembly, food or beverages received at the time and geographic location of a meeting of a legislative organization for which the member's presiding officer has approved the member's attendance at State expense;

(ii) ceremonial gifts or awards of insignificant monetary value;

(iii) except for a State official of the Executive Branch or Legislative Branch, unsolicited gifts of nominal value;

(iv) for a State official of the Executive Branch or Legislative Branch, unsolicited gifts from a regulated lobbyist that are not meals or alcoholic beverages and that do not exceed \$20 in cost;

(v) trivial gifts of informational value;

(vi) in return for participation on a panel or a speaking engagement at a meeting, reasonable expenses for food, travel, lodging, or scheduled entertainment of the official or employee if the expenses are associated with the meeting, except that, if such expenses for a State official of the Legislative Branch or Executive Branch are to be paid by a regulated lobbyist and are anticipated to exceed \$500, the official shall notify the appropriate advisory body before attending the meeting;

(vii) for a member of the General Assembly, reasonable expenses for food, travel, lodging, or scheduled entertainment to attend a legislative conference that has been approved by the member's presiding officer;

(viii) tickets or free admission extended to an elected constitutional officer from the person sponsoring or conducting the event, as a courtesy or ceremony to the office, to attend a charitable, cultural, or political event;

(ix) a specific gift or class of gifts exempted from subsection (b) of this section by the Ethics Commission on a written finding that:

1. acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of government; and

2. the gift is purely personal and private in nature;

(x) a gift from:

1. an individual related to the official or employee by blood or marriage; or

2. any other individual who is a member of the household of the official or employee; or

(xi) to the extent provided in subsection (d) of this section, honoraria.

(d) *Honoraria.* — (1) Except as provided in subsection (c)(2)(vi) of this section, a member or member-elect of the General Assembly may not accept an honorarium.

(2) Subject to subsection (c)(1) of this section, an official or employee who is not a member or member–elect of the General Assembly may accept an honorarium if:

(i) the honorarium is limited to reasonable expenses for the official’s meals, travel, and lodging, and reasonable and verifiable expenses for care of a child or dependent adult, that are actually incurred;

(ii) the honorarium consists of gifts described in subsection (c)(2)(ii) through (iv) of this section; or

(iii) the official or employee is a faculty member of a State institution of higher education who does not hold another position as an official that precludes receiving the honorarium.

(3) Other than as allowed by paragraph (2) of this subsection, an honorarium may not be accepted, even if allowed by subsection (c)(1) of this section, if:

(i) the payor of the honorarium has an interest that may be affected substantially and materially, in a manner distinguishable from the public generally, by the performance or nonperformance of the official’s or employee’s official duties; and

(ii) the offering of the honorarium is related in any way to the official’s or employee’s official position.

(e) *Gifts prohibited under State Finance and Procurement Article.* — An official or employee may not accept a gift that is prohibited under § 13–211 of the State Finance and Procurement Article.

(f) *Further exemptions.* — By regulation, the Ethics Commission may define further exemptions from this section as may be necessary.

#### **5–506. Use of prestige of office.**

(a) *In general.* — An official or employee may not intentionally use the prestige of office or public position for that official’s or employee’s private gain or that of another.

(b) *Exemption.* — The performance of usual and customary constituent services, without additional compensation, is not prohibited under subsection (a) of this section.

**5-507. Disclosure or use of confidential information.**

Except in the discharge of an official duty, an official or employee may not disclose or use confidential information acquired by reason of the official's or employee's public position and not available to the public:

- (1) for personal economic benefit; or
- (2) for the economic benefit of another.

Part II. Special Legislative Provisions.

**5-511. Application of Part.**

This part applies only to members of the General Assembly.

**5-512. Disqualification — Presumption of conflict.**

(a) *“Close economic association” defined.* — (1) In this section, “close economic association” means the association between a legislator and:

- (i) the legislator's:
  1. employer;
  2. employee; or
  3. partner in a business or professional enterprise;
- (ii) a partnership, limited liability partnership, or limited liability company in which the legislator has invested capital or owns an interest;
- (iii) a corporation in which the legislator owns the lesser of:
  1. 10% or more of the outstanding capital stock; or
  2. capital stock with a cumulative value of \$25,000 or more; and
- (iv) a corporation in which the legislator is an officer, a director, or an agent.

- (2) “Close economic association” does not include a legislator's

ownership of stock directly through a mutual fund, a retirement plan, or any other similar commingled investment vehicle the individual investments of which the legislator does not control or manage.

(b) *Disqualification.* — (1) An interest of a member of the General Assembly conflicts with the public interest if the legislator's interest tends to impair the legislator's independence of judgment.

(2) The conflict disqualifies the legislator from participating in any legislative action, or otherwise attempting to influence any legislation, to which the conflict relates.

(c) *Presumption of conflict.* — It is presumed that an interest disqualifies a legislator from participating in legislative action whenever the legislator:

(1) has or acquires a direct interest in an enterprise that would be affected by the legislator's vote on proposed legislation, unless the interest is common to all members of:

(i) a profession or occupation of which the legislator is a member; or

(ii) the general public or a large class of the general public;

(2) benefits financially from a close economic association with a person whom the legislator knows has a direct interest in an enterprise or interest that would be affected by the legislator's participation in legislative action, differently from other like enterprises or interests;

(3) benefits financially from a close economic association with a person who is lobbying for the purpose of influencing legislative action; or

(4) solicits, accepts, or agrees to accept a loan, other than a loan from a commercial lender in the normal course of business, from a person who would be affected by or has an interest in an enterprise that would be affected by the legislator's participation in legislative action.

### **5-513. Suspension of disqualification.**

(a) *Disclaimer of conflict; exception.* — (1) Except as provided in paragraph (2) of this subsection, the disqualification arising under § 5-512 of this subtitle is suspended if a legislator with an apparent or presumed conflict files with the Joint Ethics Committee a sworn statement that:

(i) describes the circumstances of the apparent or presumed conflict and the legislation or class of legislation to which it relates; and

(ii) asserts that the legislator is able to participate in legislative action relating to the legislation fairly, objectively, and in the public interest.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the disqualification arising under § 5–512 of this subtitle may not be suspended if the conflict is direct and personal to:

1. the legislator;
2. a member of the legislator’s immediate family; or
3. the legislator’s employer.

(ii) This paragraph does not apply to a vote on:

1. the annual operating budget bill, in its entirety; or
2. the annual capital budget bill, in its entirety.

(b) *Statement of Joint Ethics Committee; further action.* — (1) Whenever a legislator files a statement described in subsection (a)(1) of this section, the Joint Ethics Committee on its own motion may issue a statement concerning the propriety of the legislator’s participation in the particular legislative action, with reference to the applicable ethical standards.

(2) The suspension of the disqualification by the filing of the statement is subject to further action by the Joint Ethics Committee if the question of conflict comes before the Committee as to the same circumstances and the same legislator.

(c) *Statement of recusal.* — A member who is disqualified from participating in legislative action under subsection (a)(2)(i) of this section, or who chooses to be excused from participating in legislative action on a bill or class of bills because of the appearance or presumption of a conflict, shall file in a timely manner a statement with the Joint Ethics Committee that describes the circumstances of the apparent or presumed conflict.

(d) *Public record.* — All statements filed under this section shall be:



(1) filed electronically on a form required by the Joint Ethics Committee; and

(2) maintained as a matter of public record as required in subsection (e) of this section.

(e) *Statements available for public inspection; contents.* — (1) The Department of Legislative Services shall:

(i) compile the statements filed under this section;

(ii) make the statements available for public inspection as provided in the Public Information Act; and

(iii) as to statements filed on or after January 1, 2013, make the statements freely available to the public on the Internet through an online registration program.

(2) As to each statement, the Internet posting shall indicate:

(i) whether the Joint Ethics Committee has made a determination under subsection (b) of this section;

(ii) the determination made, if any; and

(iii) the date, if any, on which the determination was made.

#### **5-514. Outside income relating to State or local governmental entities.**

(a) *Restriction on earned income.* — (1) Except as provided in paragraph (2) or (3) of this subsection, a member of the General Assembly, a filed candidate for election to the General Assembly, or a member-elect of the General Assembly may not receive earned income from:

(i) an executive unit; or

(ii) a political subdivision of the State.

(2) The Joint Ethics Committee may exempt an individual from the provisions of paragraph (1) of this subsection if the earned income is for:

(i) educational instruction provided by the member, candidate, or member-elect;

(ii) a position that is subject to a merit system hiring process;

(iii) a human services position; or

(iv) a career promotion, change, or progression that is a logical transition from a pre-existing relationship as described in paragraph (3)(ii) of this subsection.

(3) This subsection does not apply to compensation to a member, candidate, or member-elect derived from:

(i) employment as a nonelected law enforcement officer or a fire or rescue squad worker; or

(ii) a transaction or relationship that existed before the individual:

1. filed a certificate of candidacy for election to the General Assembly while the individual was not an incumbent member of the General Assembly; or

2. was appointed to fill a vacancy.

(b) *Reports.* — (1) A legislator shall report the following information in writing to the Joint Ethics Committee at the times and in the manner required by the Joint Ethics Committee:

(i) subject to paragraph (2) of this subsection, if representing a person for compensation before a State or local government agency, except in a judicial proceeding or in a quasi-judicial proceeding, the name of the person represented, the services performed, and the consideration;

(ii) if representing a State or local government agency for compensation, the name of the agency, the services performed, and the consideration;

(iii) the name of any business enterprise subject to regulation by a State agency in which the legislator and a member of the legislator's immediate family (spouse and children living with the legislator), together or separately, have:

1. the lesser of:

or  
A. 10% or more of the capital stock of any corporation;

B. capital stock of any corporation with a cumulative value of \$25,000 or more; and

2. any interest in a partnership, limited liability partnership, or limited liability company;

(iv) details of any contractual relationship with a governmental entity of the State or a local government in the State, including the subject matter and the consideration;

(v) details of any transaction with a governmental entity of the State or a local government in the State involving a monetary consideration; and

(vi) any primary employment or business interest and the employer of the legislator or the spouse of the legislator, except for employment as a legislator.

(2) A legislator, on the written advice of the Counsel to the Joint Ethics Committee, is not required to report any information under this subsection if reporting the information would violate standards of client confidentiality or professional conduct.

(3) The Joint Ethics Committee may adopt procedures to keep confidential the name of the person represented in a report filed under subsection (b)(1)(i) of this section if that information is privileged or confidential under any law governing proceedings before that State or local government agency.

(c) *Public record.* — All reports filed under this section shall be:

(1) filed electronically on a form required by the Joint Ethics Committee; and

(2) maintained as a matter of public record as required in subsection (d) of this section.

(d) *Reports available for public inspection; contents.* — (1) The Department of Legislative Services shall:

(i) compile the reports filed under this section;

(ii) make the reports available for public inspection as provided in the Public Information Act; and

(iii) as to reports filed on or after January 1, 2013, and except as provided in paragraph (2) of this subsection, make the reports freely available to the public on the Internet through an online registration program.

(2) The Department of Legislative Services may not post on the Internet information related to consideration received that is reported under subsection (b) of this section.

### **5-515. Joint Ethics Committee — Written opinions.**

(a) *Request for opinion.* — (1) A legislator may request a written opinion from the Joint Ethics Committee on the propriety of any current or proposed conduct of the legislator and involving the applicable standards of ethical conduct for legislators established by law, rule, or other standard of ethical conduct.

(2) A request for an opinion shall:

(i) be in writing and signed by the legislator;

(ii) be addressed to the Joint Ethics Committee or either cochair;

(iii) be submitted in a timely manner; and

(iv) include a complete and accurate statement of the relevant facts.

(3) If a request is unclear or incomplete, the Joint Ethics Committee may seek additional information from the legislator.

(4) (i) The Counsel to the Joint Ethics Committee shall prepare for the Committee a response to each written request for an opinion under this subsection.

(ii) Each opinion shall discuss all applicable laws, rules, or other standards.

(5) Except as provided in paragraph (6)(i) of this subsection, an opinion must be approved by a majority of the members of the Joint Ethics Committee.

(6) (i) The cochairs of the Joint Ethics Committee may approve an opinion on behalf of the Committee if they determine that the opinion is consistent with prior precedent and therefore does not require consideration by the full Committee.

(ii) An opinion issued under subparagraph (i) of this paragraph shall be distributed to each member of the Joint Ethics Committee not later than the next meeting of the Committee.

(iii) Notwithstanding subparagraph (i) of this paragraph, if a cochair of the Joint Ethics Committee is the legislator requesting the opinion, the opinion must be approved by a majority of the Committee.

(b) *Response.* — The Joint Ethics Committee is not required to issue an opinion if the request is not made in a timely manner.

(c) *Sua sponte opinions.* — The Joint Ethics Committee on its own motion may issue opinions as it considers appropriate.

(d) *Public release.* — (1) The cochairs shall determine whether an opinion shall be made public, with deletions and changes necessary to protect the legislator's identity.

(2) (i) The Counsel to the Joint Ethics Committee shall compile and index each opinion that will be made public.

(ii) The compilation of opinions shall be distributed to each member of the General Assembly and shall be available to the public.

(e) *Savings clause.* — The Joint Ethics Committee may take no adverse action with regard to conduct that has been undertaken in reliance on a written opinion if the conduct conforms to the specific facts addressed in the opinion.

(f) *Restrictions on use of information.* — Information provided to the Joint Ethics Committee by a legislator seeking advice regarding prospective conduct may not be used as the basis for initiating an investigation under this section if the legislator acts in good faith in accordance with the advice of the Committee.

(g) *Binding effect.* — (1) An opinion issued under this section is binding on any legislator to whom it is addressed.

(2) A published opinion is binding on all members of the General Assembly.

### **5-516. Complaints.**

(a) *Form.* — A complaint alleging that a member of the General Assembly may have violated standards of ethical conduct, including § 2-108 of the State Government Article, may be filed with the Joint Ethics Committee by:

(1) a written statement from any person, accompanied by an affidavit, setting forth the facts on which the statement is based;

(2) motion of a majority of the membership of the Joint Ethics Committee; or

(3) referral of a matter to the Joint Ethics Committee by a presiding officer of the General Assembly as provided in § 2-706(a)(5) of the State Government Article.

(b) *Copies.* — (1) The Joint Ethics Committee shall provide a copy of each complaint filed under subsection (a) of this section to the presiding officer of the house of the legislator who is the subject of the complaint.

(2) Based on the information contained in a complaint provided to a presiding officer under paragraph (1) of this subsection, if a presiding officer determines that it is inappropriate for a Joint Ethics Committee member from that house to consider a particular matter, the presiding officer shall appoint a substitute member to the Joint Ethics Committee for its consideration of the matter.

### **5-517. Confidentiality.**

(a) *In general.* — Except as provided in subsection (b) of this section, any matter before the Joint Ethics Committee, including information relating to any complaint, proceeding, or record of the Joint Ethics Committee, shall remain confidential.

(b) *Exceptions.* — Public access and inspection of an activity or a record of the Joint Ethics Committee shall be available for:

(1) a disclosure or disclaimer of a conflict of interest form filed with the Joint Ethics Committee;

(2) a portion of a meeting in which a disclosure or disclaimer form is reviewed by the Joint Ethics Committee;

(3) information relating to a complaint, proceeding, or record of the

Joint Ethics Committee involving a member of the General Assembly if consent to public access and inspection is granted by:

- (i) the member involved in the matter; or
  - (ii) a three-fourths vote of the full membership of the Joint Ethics Committee, based on criteria established by rule;
- (4) a rule or broadly applicable opinion issued by the Joint Ethics Committee; or
- (5) any matter or record that is otherwise available for public access or inspection as specifically authorized under this subtitle.

**5-518. Review of complaints.**

(a) *In general.* — After the filing or preparation of a complaint under § 5-516 of this subtitle, the Joint Ethics Committee shall review the complaint and proceed in accordance with § 5-519 of this subtitle unless, after examining the complaint and the issues raised by it, the Committee finds that further proceedings are not justified because:

- (1) the complaint is frivolous;
- (2) the complaint does not allege actions on the part of the accused legislator that provide reason to believe that a violation may have occurred;
- (3) the matters alleged are not within the jurisdiction of the Joint Ethics Committee;
- (4) the violations alleged were inadvertent, technical, or minor, or have been cured, and, after consideration of all of the circumstances then known, further proceedings would not serve the purposes of this subtitle; or
- (5) for other reasons, after consideration of all the circumstances, further proceedings would not serve the purposes of this subtitle.

(b) *Report; notice; inspection.* — (1) If a finding is made under subsection (a) of this section, the Joint Ethics Committee shall:

- (i) submit a report of its conclusions to the presiding officer or to the membership of the branch of the legislature of which the accused legislator is a member, and the proceedings shall be terminated;

(ii) provide advice or guidance to the accused legislator; or

(iii) provide the accused legislator with an opportunity to cure any minor violation of ethical standards.

(2) (i) Subject to § 5–517 of this subtitle, notice of the Joint Ethics Committee’s action shall be provided to the accused legislator and to any person who filed the complaint.

(ii) On request, the accused legislator may see the complaint and the report.

(c) *Allegation summary.* — If no finding is made under subsection (a) of this section, the Joint Ethics Committee shall prepare an allegation summary, based on its examination under subsection (a) of this section, setting forth the alleged facts and the issues then known that merit further proceedings.

(d) *Providing statement to accused legislator.* — After review of a complaint, the Joint Ethics Committee shall provide a statement of its findings to the accused legislator.

#### **5–519. Allegation summary.**

(a) *Notice; answer.* — (1) Except as to proceedings terminated in accordance with § 5–518(b) of this subtitle, the Joint Ethics Committee shall provide to the accused legislator a copy of:

(i) the complaint filed or prepared in accordance with § 5–516 of this subtitle; and

(ii) the allegation summary prepared in accordance with § 5–518(c) of this subtitle.

(2) The accused legislator shall be allowed an opportunity to file a written answer to the allegation summary.

(b) *Termination or hearing.* — Following notification of the accused legislator, the Joint Ethics Committee may:

(1) terminate the proceedings; or

(2) schedule a hearing and notify the accused legislator of the time, location, and procedures of the hearing.



(c) *Amendment.* — (1) The Joint Ethics Committee may amend the allegation summary at any time.

(2) If an allegation summary is amended under paragraph (1) of this subsection, the accused legislator shall be allowed an opportunity to file a written answer to the amended allegation summary.

### **5–520. Hearing procedures.**

(a) *Adoption.* — The Joint Ethics Committee shall adopt written procedures for conducting a hearing to consider a complaint, an allegation summary, and a written answer, if any.

(b) *Access.* — The written procedures adopted by the Joint Ethics Committee under subsection (a) of this section:

- (1) shall be available for public inspection;
- (2) shall be provided to the legislator who is the subject of a hearing;
- (3) shall allow the accused legislator to:
  - (i) be represented by counsel;
  - (ii) cross-examine witnesses; and
  - (iii) be provided an opportunity to inspect, in a reasonable manner, any records that the Joint Ethics Committee intends to use during the hearing, subject to limitations established by the Joint Ethics Committee in the written procedures; and
- (4) subject to items (1) and (2) of this subsection, may be amended by the Joint Ethics Committee at any time.

(c) *Subpoenas.* — (1) (i) If the Joint Ethics Committee determines that a hearing is required under § 5–519(b)(2) of this subtitle, the Joint Ethics Committee, by a two-thirds vote of its full membership, may issue one or more subpoenas that require the appearance of a person, the production of relevant records, and the giving of relevant testimony.

(ii) If the Joint Ethics Committee exercises subpoena powers under this paragraph, the legislator who is the subject of the investigation may require the Joint Ethics Committee to issue one or more subpoenas on the

legislator's behalf.

(2) A request to appear, an appearance, or a submission of evidence does not limit the subpoena power of the Joint Ethics Committee.

(3) A subpoena issued under paragraph (1) of this subsection shall be served:

(i) in the manner provided by law for service of a subpoena in a civil action;

(ii) before the time that the subpoena sets for appearance or production of records; and

(iii) with the following documents:

1. a copy of this title;

2. a copy of the rules of the Joint Ethics Committee;

and

3. if the subpoena requires the appearance of a person, notice that counsel may accompany the person.

(4) A person who is subpoenaed to appear at a hearing is entitled to receive the fees and allowances that are provided for a person who is subpoenaed by a circuit court.

(5) A person may be held in contempt if the person unjustifiably:

(i) fails or refuses to comply with a subpoena for appearance;

(ii) appears but fails or refuses to testify under oath; or

(iii) disobeys a directive of the presiding chair at the hearing to answer a relevant question or to produce a record, including an electronic record, that has been subpoenaed, unless the directive is overruled by a majority vote of the members of the Joint Ethics Committee who are present at the hearing.

(6) By a two-thirds vote of its full membership, the Joint Ethics Committee may apply for a contempt citation to a circuit court.

### **5-521. Findings.**

(a) *Sources.* — The Joint Ethics Committee may make a finding developed from:

- (1) information presented during the hearing;
- (2) the allegation summary and any amendments to it;
- (3) the written answer of the accused legislator to the allegation summary, if any; and
- (4) any other information provided to the Joint Ethics Committee and made available to the accused legislator.

(b) *Criteria.* — Consistent with the purposes of this title, the Joint Ethics Committee may establish criteria for making a finding in its written procedures established under § 5–520(a) of this subtitle.

(c) *Procedure.* — If the Joint Ethics Committee makes a finding under this section, the Joint Ethics Committee shall:

- (1) terminate the proceeding against the accused legislator; or
- (2) issue any recommendations to the presiding officer of the house of the accused legislator or to the full house of the accused legislator, including any recommendations for appropriate sanctions.

#### **5–522. Referral to prosecutorial authorities.**

If the Joint Ethics Committee, at any time during its consideration of any complaint or allegation summary or during any proceeding, finds that there are reasonable grounds to believe that a legislator may have committed a crime, the Joint Ethics Committee shall:

- (1) refer the matter to an appropriate prosecuting authority; and
- (2) provide any information or evidence to the prosecuting authority that the Joint Ethics Committee determines is appropriate.

### Part III. Public–Private Partnership Act.

#### **5–525. Institutions of higher education.**

(a) *Definitions.* — (1) In this section the following words have the meanings indicated.

(2) “Conflict of interest policies” means policies adopted by a governing board and approved:

- (i) by the Office of the Attorney General; and
- (ii) as to conformity with this section, by the Ethics Commission.

(3) “Educational institution” means:

(i) a public senior higher education institution as defined in § 10–101 of the Education Article;

(ii) a center or an institute of the University System of Maryland that is designated in the conflict of interest policies adopted by the System’s Board of Regents; or

(iii) the University System of Maryland Administration, for which the Chancellor of the System shall be considered the president for purposes of this section.

(4) “Governing board” has the meaning provided in § 10–101 of the Education Article.

(5) “Relationship” includes any:

- (i) interest;
- (ii) service;
- (iii) employment;
- (iv) gift; or
- (v) other benefit or relationship.

(6) (i) “Research or development” means basic or applied research or development.

(ii) “Research or development” includes:

- 1. the development or marketing of university–owned technology;

2. the acquisition of services of an official or employee by an entity for research and development purposes; or

3. participation in State economic development programs.

(b) *Adoption of procedures.* — (1) Each educational institution engaged in research or development shall develop conflict of interest procedures based on:

(i) conflict of interest policies developed by its governing board; and

(ii) the purposes of this title specified in § 5–102 of this title.

(2) Before they may become effective, the procedures and policies developed under this subsection shall be approved by:

(i) the Office of the Attorney General; and

(ii) as to conformity with this section, the Ethics Commission.

(c) *Content of procedures — In general.* — The procedures adopted by an educational institution under subsection (b) of this section shall:

(1) require disclosure of any interest in, employment by, or other relationship with an entity for which an exemption under this section is claimed, on a form filed with the Ethics Commission and maintained as a public record at the educational institution;

(2) require a review of all disclosures by a designated official, who shall determine what:

(i) further information must be disclosed; and

(ii) restrictions shall be imposed by the educational institution to manage, reduce, or eliminate any actual or potential conflict of interest;

(3) include guidelines to ensure that interests and employment for which an exemption under this section is claimed do not:

(i) improperly give an advantage to entities in which the interests or employment are maintained;

(ii) lead to misuse of institution students or employees for the benefit of entities in which the interests or employment are maintained; or

(iii) otherwise interfere with the duties and responsibilities of the exempt official or employee;

(4) require approval by the president of the educational institution of any interest or employment for which an exemption is claimed under this section; and

(5) require approval by the governing board of the educational institution if an exemption is claimed by the president of the educational institution.

(d) *Content of procedures — Consultations.* — Policies and procedures adopted under this section may provide for periodic consultation with the Department of Commerce and with federal agencies that have imposed regulatory requirements on federally funded research, concerning the implementation of this section.

(e) *Exemption from State ethics law requirements.* — (1) Except as provided in subsection (f) of this section, a present or former official or employee at an educational institution may have a relationship, otherwise prohibited by this subtitle, with an entity engaged in research or development, or with an entity having a direct interest in the outcome of research or development, only if:

(i) the educational institution has adopted policies and procedures in accordance with this section; and

(ii) the official or employee has complied with the policies and procedures.

(2) If the provisions of this subsection are not met, the official or employee is not exempt from any relevant provisions of this subtitle.

(f) *Limitation on exemptions.* — (1) This section does not exempt an official or employee at an educational institution from the provisions of § 5–505 of this subtitle.

(2) An official or employee at an educational institution may not:

(i) represent a party for contingent compensation in any matter before the institution’s governing board or before the Board of Public Works;

or

(ii) intentionally misuse the individual's State position for the individual's personal gain or for the gain of another person.

(g) *Quarterly reports.* — Each governing board shall report quarterly to the Governor, the Legislative Policy Committee of the General Assembly, and the Ethics Commission:

(1) the number of approvals granted under subsection (c) of this section; and

(2) how the conflict of interest policies and procedures adopted under this section have been implemented in the preceding year.

(h) *Specific officials.* — (1) This subsection applies to an official who is:

(i) a chancellor, vice chancellor, president, or vice president at a public senior higher educational institution in the State; or

(ii) an individual who holds a similar position at a public senior higher educational institution in the State.

(2) An official subject to this subsection may not receive an exemption under this section unless the governing board of the educational institution finds that:

(i) participation by, and the financial interest or employment of, the official is necessary to the success of the research or development activity; and

(ii) the conflict of interest can be managed consistent with the purposes of this section and other relevant provisions of this title.

(3) Notwithstanding subsection (g) of this section, the governing board of an educational institution promptly shall notify the Ethics Commission in writing of any exemption that is granted under this section to an official subject to this subsection.

(4) (i) If the Ethics Commission disagrees with an exemption that is granted by the governing board of an educational institution to an official who is subject to this subsection, within 30 days after receipt of the notice under paragraph (3) of this subsection, the Ethics Commission shall notify the governing board of the reason for its disagreement.

(ii) On receipt of the notice from the Ethics Commission under subparagraph (i) of this paragraph, the governing board of the educational institution shall reexamine the matter.

(i) *Short title.* — This section may be cited as the Public–Private Partnership Act.

*Subtitle 6. Financial Disclosure.*

**5–601. Individuals required to file statement.**

(a) *Officials and candidates.* — Except as provided in subsections (b) and (c) of this section, and subject to subsections (d) and (e) of this section, each official and candidate for office as a State official shall file a statement as specified in §§ 5–602 through 5–608 of this subtitle.

(b) *State officials of Judicial Branch.* — Financial disclosure by a judge of a court under Article IV, § 1 of the Maryland Constitution, a candidate for elective office as a judge, or a judicial appointee as defined in Maryland Rule 16–814 is governed by § 5–610 of this subtitle.

(c) *Exceptions.* — The requirement to file a financial disclosure statement under subsection (a) of this section does not apply to:

(1) a deputy sheriff and any employee in the office of the sheriff of a county; and

(2) a deputy or assistant State’s Attorney and any employee in the office of the State’s Attorney for a county.

(d) *Member of board.* — (1) An individual who is a public official only as a member of a board and who receives annual compensation that is less than 25% of the lowest annual compensation at State grade level 16 shall file the statement required by subsection (a) of this section in accordance with § 5–609 of this subtitle.

(2) A member of the Harford County Liquor Control Board shall file the statement required by subsection (a) of this section in accordance with § 5–609 of this subtitle.

(e) *Commissioner of bicounty commission.* — A commissioner or an applicant for appointment as commissioner of a bicounty commission shall file the statement required by subsection (a) of this section in accordance with Subtitle 8, Part IV of this title.



**5-602. Financial disclosure statement — Filing requirements.**

(a) *In general.* — Except as otherwise provided in this subtitle, a statement filed under § 5-601, § 5-603, § 5-604, or § 5-605 of this subtitle shall:

- (1) be filed electronically with the Ethics Commission;
  - (2) be filed under oath;
  - (3) be filed on or before April 30 of each year;
  - (4) cover the calendar year immediately preceding the year of filing;
- and
- (5) contain the information required in § 5-607 of this subtitle.

(b) *Duplicate filing.* — A member of the General Assembly shall file the statement with the Ethics Commission and the Joint Ethics Committee.

(c) *Preliminary disclosure.* — (1) In addition to the statement filed under § 5-601 of this subtitle, a member of the General Assembly shall file a preliminary disclosure on or before the seventh day of the regular legislative session if there will be a substantial change in the statement covering the calendar year immediately preceding the year of filing, as compared to the next preceding calendar year.

(2) A member of the General Assembly whose statement under § 5-601 of this subtitle will not contain a substantial change is not required to file a preliminary disclosure under paragraph (1) of this subsection.

(3) The Joint Ethics Committee shall determine:

(i) the form of a preliminary disclosure under this subsection; and

(ii) which aspects of financial disclosure are subject to this subsection.

(4) A preliminary disclosure shall be filed and maintained, and may be disclosed, in the same manner required for a statement filed under § 5-601 of this subtitle.

(d) *Electronic filing; exemption.* — (1) The Ethics Commission shall develop and implement procedures:

(i) for the electronic filing of a statement under this subtitle;  
and

(ii) for the Ethics Commission to grant an exemption to the requirement under subsection (a)(1) of this section.

(2) (i) To comply with the requirement of paragraph (1) of this subsection, the Ethics Commission may adopt regulations to modify the format for disclosure of information required under § 5–607 of this subtitle.

(ii) The regulations adopted under this paragraph shall be consistent with the intent of this title.

(e) *Oath or affirmation for electronic filing.* — (1) If the financial disclosure statement filed electronically under subsection (d) of this section is required to be made under oath or affirmation, the oath or affirmation shall be made by an electronic signature that is:

(i) in the financial disclosure statement or attached to and made part of the financial disclosure statement; and

(ii) made expressly under the penalties for perjury.

(2) An electronic signature made under paragraph (1) of this subsection subjects the individual making it to the penalties for perjury to the same extent as an oath or affirmation made before an individual authorized to administer oaths.

### **5–603. Appointee filling vacancy.**

An individual who is appointed to fill a vacancy in an office for which a statement is required by § 5–601(a) of this subtitle, and who has not already filed a statement under § 5–602 of this subtitle for the preceding calendar year, shall file the statement within 30 days after appointment.

### **5–604. Official leaving office.**

(a) *In general.* — Except as provided under subsection (c) of this section, an individual who, other than by reason of death, leaves an office for which a statement is required by § 5–601(a) of this subtitle shall file the statement within 60 days after leaving the office.

(b) *Period covered.* — The statement shall cover:

(1) the calendar year immediately preceding the year in which the individual left office, unless a statement covering that year has already been filed by the individual; and

(2) the portion of the current calendar year during which the individual held the office.

(c) *Exceptions.* — This section does not require the filing of a statement if:

(1) the individual has left office to become an official in another office for which a statement is required under this subtitle; and

(2) the disclosure requirements of the new office are at least as extensive as those of the old office.

#### **5–605. Candidates for office.**

(a) *In general.* — Except as provided in subsection (b) of this section, a candidate who is required by § 5–601(a) of this subtitle to file a statement shall file the statement each year beginning with the year in which the candidate files a certificate of candidacy through the year of the election.

(b) *Exception.* — This section does not require the filing of a statement for any full year covered by a statement filed by the individual under § 5–602 of this subtitle.

(c) *Filing requirements.* — A statement under this section shall be filed with the election board with which the certificate of candidacy is required to be filed.

(d) *Time for filing.* — (1) The first statement required under this section shall be filed no later than the filing of the certificate of candidacy.

(2) In the year of the election the statement shall be filed on or before the earlier of:

(i) April 30; or

(ii) the last day for the withdrawal of a candidacy under § 5–502 of the Election Law Article.

(e) *Failure to file.* — If a statement required by this section is overdue and is not filed within 20 days after the candidate receives from the election board written notice of the failure to file, the candidate is deemed to have withdrawn the candidacy.

(f) *Prerequisite for filing certificate of candidacy.* — (1) An election board may not accept a certificate of candidacy or certificate of nomination of a candidate covered by this section unless the candidate has filed a statement required by this section or § 5–602 of this subtitle.

(2) An election board, within 30 days after receiving a statement, shall forward the statement to the Ethics Commission.

### **5–606. Public record.**

(a) *Access to statements.* — (1) The Ethics Commission and the Joint Ethics Committee shall maintain the statements submitted under this subtitle and, during normal office hours, make the statements available to the public for examination and copying.

(2) The Ethics Commission and the Joint Ethics Committee may charge a reasonable fee and adopt administrative procedures for the examination and copying of a statement.

(b) *Requirements and notice.* — (1) The Ethics Commission and the Joint Ethics Committee shall maintain a record of:

(i) the name and home address of each individual who examines or copies a statement under this section; and

(ii) the name of the individual whose statement was examined or copied.

(2) On the request of the individual whose statement was examined or copied, the Ethics Commission or the Joint Ethics Committee shall forward to that individual a copy of the record specified in paragraph (1) of this subsection.

### **5–607. Content of statements.**

(a) *In general.* — A statement that is required under § 5–601(a) of this subtitle shall contain schedules disclosing the information and interests specified in this section, if known, for the individual making the statement for the applicable period.

(b) *Interests in real property.* — (1) The statement shall include a schedule of each interest in real property, wherever located, including each interest held in the name of a partnership, limited liability partnership, or limited liability company in which the individual held an interest.

(2) For each interest reported, the schedule shall include:

(i) the nature of the property;

(ii) the street address, mailing address, or legal description of the property;

(iii) the nature and extent of the interest in the property, including any conditions to and encumbrances on the interest;

(iv) the date and manner in which the interest was acquired;

(v) the identity of the entity from which the interest was acquired;

(vi) if the interest was acquired by purchase, the nature and amount of the consideration given for the interest;

(vii) if the interest was acquired in any other manner, the fair market value of the interest when acquired;

(viii) if any interest was transferred, in whole or in part, during the applicable period:

1. a description of the interest transferred;

2. the nature and amount of the consideration received for the interest; and

3. the identity of the entity to which the interest was transferred; and

(ix) the identity of any other entity with an interest in the property.

(c) *Interests in corporations and partnerships.* — (1) The statement shall include a schedule of each interest held by the individual in a corporation, partnership, limited liability partnership, or limited liability company, whether or

not the corporation, partnership, limited liability partnership, or limited liability company does business with the State.

(2) For each interest reported, the schedule shall include:

(i) the name and address of the principal office of the corporation, partnership, limited liability partnership, or limited liability company;

(ii) subject to paragraph (3) of this subsection, the nature and amount of the interest held, including any conditions to and encumbrances on the interest;

(iii) except as provided in paragraph (4) of this subsection, if any interest was acquired during the applicable period:

1. the date and manner in which the interest was acquired;

2. the identity of the entity from which the interest was acquired;

3. if the interest was acquired by purchase, the nature and amount of the consideration given for the interest; and

4. if the interest was acquired in any other manner, the fair market value of the interest when it was acquired; and

(iv) if any interest was transferred, in whole or in part, during the applicable period:

1. a description of the interest transferred;

2. the nature and amount of the consideration received for the interest; and

3. if known, the identity of the entity to which the interest was transferred.

(3) (i) As to an equity interest in a corporation, the individual may satisfy paragraph (2)(ii) of this subsection by reporting, instead of a dollar amount:

1. the number of shares held; and

2. unless the corporation's stock is publicly traded, the percentage of equity interest held.

(ii) As to an equity interest in a partnership, limited liability partnership, or limited liability company, the individual may satisfy paragraph (2)(ii) of this subsection by reporting, instead of a dollar amount, the percentage of equity interest held.

(4) If an interest acquired during the applicable reporting period consists of additions to existing publicly traded corporate interests acquired by dividend or dividend reinvestment, and the total value of the acquisition is less than \$500, only the manner of acquisition is required to be disclosed under paragraph (2)(iii) of this subsection.

(d) *Interests in business entities doing business with State.* — (1) The statement shall include a schedule of each interest in a business entity doing business with the State, other than interests reported under subsection (c) of this section.

(2) For each interest reported, the schedule shall include:

(i) the name and address of the principal office of the business entity;

(ii) the nature and amount of the interest held, including any conditions to and encumbrances on the interest;

(iii) if any interest was acquired during the applicable period:

1. the date and manner in which the interest was acquired;

2. the identity of the entity from which the interest was acquired;

3. if the interest was acquired by purchase, the nature and amount of the consideration given for the interest; and

4. if the interest was acquired in any other manner, the fair market value of the interest when it was acquired; and

(iv) if any interest was transferred, in whole or in part, during the applicable period:

1. a description of the interest transferred;
2. the nature and amount of the consideration received for the interest; and
3. the identity of the entity to which the interest was transferred.

(e) *Gifts.* — (1) This subsection does not apply to a gift received from a member of the immediate family, another child, or a parent of the individual.

(2) The statement shall include a schedule of each gift, specified in paragraph (3) of this subsection, received during the applicable period:

(i) by the individual or by another entity at the direction of the individual; and

(ii) directly or indirectly, from or on behalf of an entity that is:

1. a regulated lobbyist;
2. regulated by the State; or
3. otherwise an entity doing business with the State.

(3) (i) Except as provided in subparagraph (ii) of this paragraph, the schedule shall include each gift with a value of more than \$20 and each of two or more gifts with a cumulative value of \$100 or more received from one entity during the applicable period.

(ii) The statement need not include as a gift:

1. food or beverages received and consumed by an official of the Legislative Branch in the presence of the donor or sponsoring entity as part of a meal or reception to which all members of a legislative unit were invited;

2. food or beverages received by a member of the General Assembly at the time and geographic location of a meeting of a legislative organization for which the member's presiding officer has approved the member's attendance at State expense; or

3. except as provided in subparagraph (iii) of this paragraph, a ticket or free admission extended to a member of the General



Assembly by the person sponsoring or conducting the event as a courtesy or ceremony to the office to attend a charitable, cultural, or political event to which all members of a legislative unit were invited.

(iii) The statement shall include the acceptance of each of two or more tickets or free admissions, extended to a member of the General Assembly by the person sponsoring or conducting the event, with a cumulative value of \$100 or more received from one entity during the applicable period.

(4) For each gift subject to this subsection, the schedule shall include:

(i) the nature and value of the gift; and

(ii) the identity of the entity from which the gift was received, whether directly or indirectly.

(5) This subsection does not authorize acceptance of a gift not otherwise allowed by law.

(f) *Employment by or interests in business entities doing business with State.*  
— (1) The statement shall include, as specified in this subsection, a schedule of all offices, directorships, and salaried employment, or any similar interest not otherwise disclosed, in business entities doing business with the State.

(2) This subsection applies to positions and interests held at any time during the applicable period by:

(i) the individual; or

(ii) any member of the individual's immediate family.

(3) For each position or interest reported, this schedule shall include:

(i) the name and address of the principal office of the business entity;

(ii) the nature of the position or interest and the date it commenced;

(iii) the name of each governmental unit with which the entity is doing business; and

(iv) the nature of the business with the State, which, at a minimum, shall be specified by reference to the applicable criteria of doing business described in § 5–101(j) of this title.

(g) *Indebtedness to entity doing business with State.* — (1) The statement shall include a schedule, to the extent the individual may reasonably be expected to know, of each debt, excluding retail credit accounts, owed at any time during the applicable period to entities doing business with the State:

(i) by the individual; and

(ii) if the individual was involved in the transaction giving rise to the debt, by any member of the immediate family of the individual.

(2) For each debt, the schedule shall include:

(i) the identity of the entity to which the debt was owed;

(ii) the date it was incurred;

(iii) the amount owed at the end of the applicable period;

(iv) the terms of payment;

(v) the extent to which the principal was increased or decreased during the applicable period; and

(vi) any security given.

(h) *Family members employed by State.* — The statement shall include a schedule listing the members of the immediate family of the individual who were employed by the State in any capacity at any time during the applicable period.

(i) *Sources of earned income.* — (1) Except as provided in paragraph (2) of this subsection, the statement shall include a schedule listing the name and address of each:

(i) place of salaried employment, including secondary employment, of the individual or a member of the individual's immediate family at any time during the applicable period; and

(ii) business entity of which the individual or a member of the individual's immediate family was a sole or partial owner, and from which the

individual or family member received earned income, at any time during the applicable period.

(2) The statement may not include a listing of a minor child's employment or business entities of which the child is sole or partial owner, unless the place of employment or the business entity:

(i) is subject to the regulation or authority of the agency that employs the individual; or

(ii) has contracts in excess of \$10,000 with the agency that employs the individual.

(j) *Additional information.* — The statement may include a schedule listing additional interests or information that the individual chooses to disclose.

(k) *Additional reports by General Assembly members.* — To the extent not reported under subsections (a) through (j) of this section, a statement filed by a member of the General Assembly shall include:

(1) the information required under § 5–514(b) of this title; and

(2) an acknowledgment, signed by the member, that any information required under § 5–514(b) of this title that becomes reportable after the statement is filed shall be reported immediately to the Joint Ethics Committee as required by § 5–514(b) of this title.

#### **5–608. Interests attributable to individual filing statement.**

(a) *Interests attributable.* — The following are deemed to be interests of the individual under § 5–607(b), (c), and (d) of this subtitle:

(1) an interest held by a spouse or child of the individual, if the interest was controlled, directly or indirectly, by the individual at any time during the applicable period;

(2) an interest held by a business entity in which the individual held a 30% or greater interest at any time during the applicable period; and

(3) an interest held by a trust or an estate in which, at any time during the applicable period, the individual:

(i) held a reversionary interest;

- (ii) was a beneficiary; or
- (iii) if a revocable trust, was a settlor.

(b) *Effect on other disclosure requirements.* — Subsection (a)(2) of this section does not affect:

(1) the requirement under § 5–607(b) of this subtitle of disclosure of real estate interests held in the name of a partnership, limited liability partnership, or limited liability company in which the individual holds an interest; or

(2) the requirement under § 5–607(c) of this subtitle of disclosure of all partnerships, limited liability partnerships, or limited liability companies in which the individual holds an interest.

(c) *Blind trusts.* — For the purposes of § 5–607 of this subtitle, interests held by a blind trust may not be considered to be interests of the person making the statement if the blind trust is approved by the Ethics Commission in accordance with regulations adopted under § 5–501(b) or § 5–502(c) of this title and is operated in compliance with those regulations.

#### **5–609. Certain board members — Modified requirements.**

(a) *Filing requirements.* — (1) Subject to paragraph (2) of this subsection, a member of a board who is described in § 5–601(d) of this subtitle shall file the statement required by § 5–601 of this subtitle.

(2) The member shall be required to disclose the information specified in § 5–607 of this subtitle only as to those interests, gifts, compensated positions, and liabilities that may create a conflict, as described in Subtitle 5 of this title, between the member’s personal interests and the member’s duties on the board.

(b) *Regulations.* — (1) The Ethics Commission shall adopt regulations, subject to the approval of the Administrative, Executive, and Legislative Review Committee, specifying:

- (i) the information to be disclosed under subsection (a) of this section; and
- (ii) the circumstances under which the information is to be disclosed.

(2) The regulations adopted under this subsection shall be based on the experience of the Ethics Commission in:

- (i) implementing Subtitle 5 of this title; and
- (ii) reviewing statements under this subtitle.

**5–610. Judicial Branch — State officials and candidates.**

(a) *In general.* — In accordance with its administrative authority over the Judicial Branch under the Maryland Constitution, the Court of Appeals shall adopt and administer rules that require each individual specified in § 5–601(b) of this subtitle to file a statement periodically that discloses, as a public record, the information concerning the individual’s financial affairs that the court considers necessary or appropriate to promote continued trust and confidence in the integrity of the Judicial Branch.

(b) *Candidate for judicial office.* — (1) (i) Except as provided in subparagraph (ii) of this paragraph, each candidate for nomination for or election to a judgeship shall file the statement specified in subsection (a) of this section no later than the time the candidate files a certificate of candidacy.

(ii) This paragraph does not require the filing of a statement for any year covered in full by a statement filed by the individual under subsection (a) of this section.

(2) The statement shall:

(i) cover the calendar year immediately preceding the year in which the certificate of candidacy is filed; and

(ii) be filed with the election board with which the certificate of candidacy is filed.

(3) An election board may not accept a certificate of candidacy or certificate of nomination of a candidate covered by this subsection unless the candidate has filed each statement required by this section.

(4) An election board, within 30 days after receiving a statement under this subsection, shall forward the statement to the entity designated by the Court of Appeals to receive the statements filed under subsection (a) of this section.

(c) *Transmission of statements to Ethics Commission.* — Within 30 days after receiving a statement under this section, the Court of Appeals or its designee shall transmit a copy of the statement to the Ethics Commission.

**5–611. Disclosure by other personnel and appointees.**

(a) *In general.* — An individual who is not an official shall disclose information annually if designated under subsection (b) of this section.

(b) *Designation.* — For disclosure under this section:

(1) the Governor, by executive order, may designate:

- (i) an employee of an executive unit; or
- (ii) a noncompensated appointee of the Governor;

(2) the Chief Judge of the Court of Appeals, by order, may designate:

- (i) an employee of the Judicial Branch; or
- (ii) a noncompensated appointee of the Court of Appeals or the Chief Judge; and

(3) the presiding officers of the General Assembly, by order, may designate:

- (i) an employee of the Legislative Branch; or
- (ii) a noncompensated appointee of either or both of the presiding officers.

(c) *Statements.* — A statement filed under this section is a public record and shall contain the relevant information concerning the financial affairs of the individual submitting the statement that is considered necessary by the applicable designating authority.

(d) *Required designations.* — (1) In complying with subsection (b)(1) of this section, the Governor, by executive order, shall designate any employee of an executive unit who is:

- (i) a home inspector or licensed home inspector under § 16–101 of the Business Occupations and Professions Article;

(ii) a building code enforcement official employed by the State;

(iii) an accredited inspector of lead for the Department of the Environment under § 6–818 of the Environment Article; or

(iv) an environmental health specialist under Title 21 of the Health Occupations Article.

(2) An employee under paragraph (1) of this subsection shall file a statement in accordance with § 5–601 of this subtitle that:

(i) discloses any interest the employee may have in any real property in the State; and

(ii) discloses any other information the Ethics Commission considers a conflict of interest related to the employment of the employee.

*Subtitle 7. Lobbying.*

**5–701. “Compensation” defined.**

In this subtitle, “compensation”, as to a person whose lobbying is only a part of the person’s employment, means a prorated amount based on the time the person devotes to lobbying and the time the person devotes to other employment.

**5–702. Lobbying — Generally.**

(a) *Registration required.* — Unless exempted under subsection (b) of this section, an entity shall register with the Ethics Commission as provided in this subtitle and shall be a regulated lobbyist for the purposes of this title if, during a reporting period, the entity:

(1) for the purpose of influencing any legislative action or any executive action relating to the development or adoption of regulations or the development or issuance of an executive order:

(i) 1. communicates with an official or employee of the Legislative Branch or Executive Branch in the presence of that official or employee; and

2. except for the personal travel or subsistence expenses of the entity or a representative of the entity, incurs expenses of at least

\$500 or earns at least \$2,500 as compensation for all such communication and activities relating to the communication during the reporting period; or

(ii) 1. communicates with an official or employee of the Legislative Branch or Executive Branch; and

2. earns at least \$5,000 as compensation for all such communication and activities relating to the communication during the reporting period;

(2) in connection with or for the purpose of influencing any executive action, spends a cumulative value of at least \$100 for gifts, including meals, beverages, and special events, to one or more officials or employees of the Executive Branch;

(3) subject to subsection (b)(4) of this section, is compensated to influence executive action on a procurement contract that exceeds \$100,000;

(4) subject to subsection (b)(5) of this section, is compensated by a business entity to influence executive action to secure from the State a business grant or loan with a value of more than \$100,000 for the business entity;

(5) spends at least \$2,000, including expenditures for salaries, contractual employees, postage, telecommunications services, electronic services, advertising, printing, and delivery services, for the express purpose of soliciting others to communicate with an official to influence legislative action or executive action; or

(6) spends at least \$2,500 to provide compensation to one or more entities required to register under this subsection.

(b) *Exempted activities.* — (1) The following activities are exempt from regulation under this subtitle:

(i) an appearance as part of the official duties of an elected or appointed official or employee of the State, a political subdivision of the State, or the United States, to the extent that the appearance is not on behalf of any other entity;

(ii) an action of a member of the news media, to the extent that the action is in the ordinary course of gathering and disseminating news or making editorial comment to the general public;



(iii) representation of a bona fide religious organization, to the extent that the representation is for the purpose of protecting the right of its members to practice the doctrine of the organization;

(iv) an appearance as part of the official duties of an officer, a director, a member, or an employee of an association engaged only in representing counties or municipal corporations, to the extent that the appearance is not on behalf of any other entity; or

(v) an action as part of the official duties of a trustee, an administrator, or a faculty member of a nonprofit independent college or university in the State, provided the official duties of the individual do not consist primarily of attempting to influence legislative action or executive action.

(2) The following activities are exempt from regulation under this subtitle if the individual engages in no other acts during the reporting period that require registration:

(i) professional services in drafting bills or in advising clients on the construction or effect of proposed or pending legislation;

(ii) an appearance before the entire General Assembly, or any committee or subcommittee of the General Assembly, at the specific request of the body involved;

(iii) an appearance as a witness before a legislative committee at the specific request of a regulated lobbyist if the witness notifies the committee that the witness is testifying at the request of the regulated lobbyist;

(iv) an appearance before an executive unit at the specific request of the executive unit involved; or

(v) an appearance as a witness before an executive unit at the specific request of a regulated lobbyist if the witness notifies the executive unit that the witness is testifying at the request of the regulated lobbyist.

(3) An elementary, secondary, or postsecondary school student or student organization that communicates as part of a course or student activity is not subject to the registration requirements based on the expense threshold under subsection (a)(1)(i) of this section.

(4) Subsection (a)(3) of this section does not apply to a bona fide salesperson or commercial selling agency employed or maintained by an employer for the purpose of soliciting or securing a procurement contract unless the person

engages in acts during the reporting period that require registration under subsection (a)(1) or (2) of this section.

(5) If the person engages in no other act during the reporting period that requires registration, subsection (a)(4) of this section does not apply to:

(i) a bona fide full-time official or employee of a business entity seeking to secure a business grant or loan; or

(ii) a person seeking to secure a business grant or loan for the purpose of locating, relocating, or expanding a business in or into the State.

(c) *Limited exemptions — Employer of regulated lobbyist.* — (1) Except for the certification required by § 5–705(d) of this subtitle and the report required by § 5–705(d) of this subtitle, an entity that compensates one or more regulated lobbyists, and that reasonably believes that all expenditures requiring registration will be reported by the regulated lobbyist or lobbyists, is exempt from the registration and reporting requirements of this subtitle if the entity engages in no other act that requires registration.

(2) If a regulated lobbyist compensated by an entity that is exempt under paragraph (1) of this subsection fails to report the information required by this subtitle, the entity immediately shall become subject to the registration and reporting requirements of this subtitle.

### **5–703. Authority to lobby.**

(a) *Certification.* — A regulated lobbyist engaged by an entity for the purpose of lobbying shall certify under oath or affirmation that the regulated lobbyist is authorized to engage in lobbying for the entity.

(b) *Certification — Contents.* — The certification shall include:

(1) the full legal name and business address of the entity;

(2) the name, contact information, and official title of the representative of the entity who authorized the regulated lobbyist to engage in lobbying for the entity;

(3) the full legal name and business address of the regulated lobbyist;

(4) subject to subsequent modification, the period during which the regulated lobbyist is authorized to act; and

(5) the proposal or subject on which the regulated lobbyist represents the entity.

#### **5-704. Registration with Ethics Commission.**

(a) *Registration required.* — (1) At the times specified in subsection (d) of this section, each regulated lobbyist shall register with the Ethics Commission on a form provided by the Ethics Commission.

(2) A regulated lobbyist shall register separately for each entity that has engaged the regulated lobbyist for lobbying purposes.

(b) *Contents.* — Each registration form shall include the following information, if applicable:

(1) the regulated lobbyist's name and permanent address;

(2) the name and permanent address of any other regulated lobbyist that will be lobbying on the regulated lobbyist's behalf;

(3) the name, address, and nature of business of any entity that has engaged the regulated lobbyist for lobbying purposes, accompanied by a statement indicating whether, because of the filing and reporting of the regulated lobbyist, the compensating entity is exempt under § 5-702(c) of this subtitle; and

(4) the identification, by formal designation if known, of the matters on which the regulated lobbyist expects to perform acts, or to engage another regulated lobbyist to perform acts, that require registration under this subtitle.

(c) *Filing of certification statement.* — Each registration shall include the certification required by § 5-703 of this subtitle.

(d) *Registration filing.* — (1) A regulated lobbyist who is not currently registered shall register within 5 days after first performing an act that requires registration under this subtitle.

(2) A regulated lobbyist shall file a new registration form on or before November 1 of each year if, on that date, the regulated lobbyist is engaged in lobbying.

(e) *Fee.* — (1) Each registration form shall be accompanied by a fee of \$100.

(2) The fee shall be credited to the Lobbyist Registration Fund established under § 5–210 of this title.

(f) *Termination of registration.* — (1) Except as provided in paragraph (2) of this subsection, each registration shall terminate on the earlier of:

(i) the October 31 following the filing of the registration; or

(ii) an earlier termination date specified in the certification filed with respect to that registration under § 5–703 of this subtitle.

(2) A regulated lobbyist may terminate the registration before the date specified in paragraph (1) of this subsection by:

(i) ceasing all activity that requires registration; and

(ii) after ceasing activity in accordance with item (i) of this paragraph:

1. filing a notice of termination with the Ethics Commission; and

2. filing all reports required by this subtitle within 30 days after the filing of the notice of termination.

(3) (i) Subject to subparagraphs (ii) and (iii) of this paragraph, if a regulated lobbyist is or becomes subject to regulation under this title as an official or employee, the regulated lobbyist shall immediately terminate the registration in accordance with paragraph (2) of this subsection.

(ii) After holding a public hearing, the Ethics Commission shall adopt regulations establishing criteria under which a regulated lobbyist may serve on a State board or commission.

(iii) The regulations adopted under subparagraph (ii) of this paragraph shall:

1. establish a classification of State boards or commissions on which regulated lobbyists may serve;

2. at a minimum authorize a regulated lobbyist to serve as an appointed member of an advisory governmental body of limited duration; and

3. as to a regulated lobbyist who serves on a State board or commission, establish disclosure requirements that are substantially similar to disclosure requirements for members of the General Assembly.

(g) *Electronic filing.* — (1) An individual may file a registration under this section electronically and without additional cost to the individual who files the registration.

(2) A registration filed electronically under paragraph (1) of this subsection shall include the oath and affirmation required under § 5–703 of this subtitle made by an electronic signature that:

(i) is a part of the registration form or attached to and made part of the registration form; and

(ii) is made expressly under the penalties for perjury.

(3) An oath or affirmation signed electronically under paragraph (2) of this subsection subjects the individual making the oath or affirmation to the penalties for perjury to the same extent as an oath or affirmation made by an individual in person before an individual authorized to administer oaths.

#### **5–704.1. Training course.**

A regulated lobbyist, other than a regulated lobbyist described in § 5–702(a)(6) of this subtitle, shall complete the training course provided under § 5–205(e)(1) of this title:

(1) (i) within 6 months of the regulated lobbyist’s initial registration with the Ethics Commission; or

(ii) if the initial registration is terminated in accordance with § 5–704(f) of this subtitle earlier than 6 months after the date of registration, before any subsequent registration with the Ethics Commission; and

(2) on completion of the initial training course under item (1) of this section, within the 2–year period following the date of the most recently completed training course.

#### **5–705. Reports.**

(a) *In general.* — (1) A regulated lobbyist shall file with the Ethics Commission, under oath and for each registration, a separate report concerning the regulated lobbyist’s lobbying activities:

(i) by May 31 of each year, to cover the period from November 1 of the previous year through April 30 of the current year; and

(ii) by November 30 of each year, to cover the period from May 1 through October 31 of that year.

(2) If the regulated lobbyist is not an individual, an authorized officer or agent of the regulated lobbyist shall sign the report.

(3) If a prorated amount is reported as compensation, it shall be labeled as prorated.

(b) *Required information.* — A report required by this section shall include:

(1) a complete, current statement of the information required under § 5–704(b) of this subtitle;

(2) total expenditures in connection with influencing executive action or legislative action in each of the following categories:

(i) total individual regulated lobbyist compensation, excluding expenses reported under this paragraph;

(ii) office expenses of the regulated lobbyist;

(iii) professional and technical research and assistance;

(iv) publications that expressly encourage communication with one or more officials or employees;

(v) witnesses, including the name of each and the fees and expenses paid to each;

(vi) except as otherwise reported under this paragraph, meals and beverages for officials, employees, or members of the immediate families of officials or employees;

(vii) except as provided in § 5–709(d)(2) of this subtitle, food, beverages, and incidental expenses for officials of the Legislative Branch for meals and receptions to which all members of any legislative unit were invited;

(viii) food and beverages for members of the General Assembly at the times and geographic locations of meetings of legislative organizations, as allowed under § 5-505(c)(2)(i)4 of this title;

(ix) food, lodging, and scheduled entertainment for officials and employees at meetings at which the officials and employees were scheduled speakers or scheduled panel participants;

(x) tickets and free admission extended to members of the General Assembly, as a courtesy or ceremony to the office, to attend charitable, cultural, or political events sponsored or conducted by the reporting entity, as allowed under § 5-505(c)(2)(viii) of this title;

(xi) other gifts to or for officials, employees, or members of the immediate families of officials or employees; and

(xii) other expenses; and

(3) as to expenditures reported in item (2)(vii), (viii), (ix), and (x) of this subsection, the date, location, and total expense of the regulated lobbyist for each meal, reception, event, or meeting.

(c) *Additional information; exceptions.* — (1) Except as provided in paragraph (2) of this subsection, a report required under this section also shall include the name of each official, employee, or member of the immediate family of an official or employee who has benefited from one or more gifts with a cumulative value of \$75 during the reporting period from the regulated lobbyist, regardless of whether the gift:

(i) is attributable to more than one entity; or

(ii) was given in connection with lobbying activity.

(2) The following gifts need not be allocated to individual recipients and reported by name:

(i) gifts reported under subsection (b)(2)(vii) and (viii) of this section;

(ii) gifts reported under subsection (b)(2)(ix) of this section with a value of \$200 or less; and

(iii) gifts reported under subsection (b)(2)(x) of this section, unless the recipient received from the regulated lobbyist during the reporting period two or more such gifts with a cumulative value of at least \$100.

(d) *Additional reports from certain regulated lobbyists.* — (1) This subsection applies only to a regulated lobbyist, other than an individual, that is organized and operated for the primary purpose of attempting to influence legislative action or executive action.

(2) In addition to the other reports required under this section, a regulated lobbyist shall report the name and permanent address of each entity that provided at least 5% of the regulated lobbyist's total receipts during the preceding 12 months.

(3) For the purpose of the reporting and registration requirements of this subtitle, receipts of a regulated lobbyist include funds spent on the regulated lobbyist's behalf, at its direction, or in its name.

#### **5-706. Meals or beverages.**

(a) *In general.* — In addition to any other report required under this subtitle, a regulated lobbyist shall file a separate report disclosing the name of each State official of the Executive Branch or member of the immediate family of a State official of the Executive Branch who has benefited during the reporting period from a gift of a meal or beverages from the regulated lobbyist, whether or not in connection with lobbying activities, allowed under § 5-505(c)(2)(i)1 of this title.

(b) *Allocation.* — Gifts reported by name of recipient under § 5-705(b)(2)(ix) of this subtitle need not be allocated for the purposes of disclosure under subsection (a) of this section.

(c) *Required information.* — The disclosure required by this section shall be under oath or affirmation, on a form issued by the Ethics Commission, and shall include:

- (1) the name and business address of the regulated lobbyist;
- (2) the name of each recipient of a gift of a meal or beverages;
- (3) the date and value of each gift of a meal or beverages, and the identity of the entity or entities to which the gift is attributable; and
- (4) the total cumulative value of gifts of meals or beverages, calculated as to each recipient.



(d) *Explanation of circumstances.* — The regulated lobbyist may explain the circumstances under which the gift of a meal or beverages was given.

(e) *Effect of disclosure.* — Gifts of meals or beverages reported by a regulated lobbyist under this section need not be counted or reported by the regulated lobbyist for purposes of disclosure under § 5–705(c) of this subtitle.

(f) *Filing* — The report shall be filed at the time and in the manner required for reports filed under § 5–705 of this subtitle.

### **5–707. Reports of business transactions — Generally.**

(a) *Application of section.* — (1) This section applies only to an individual regulated lobbyist described in § 5–702(a)(1), (2), (3), or (4) of this subtitle who lobbies the Executive Branch or Legislative Branch.

(2) This section does not apply to an entity that employs an individual regulated lobbyist described in § 5–702(a)(1), (2), (3), or (4) of this subtitle.

(b) *Covered transactions.* — In addition to any other report required under this subtitle, an individual regulated lobbyist shall file, with the report required under § 5–705 of this subtitle, a report that discloses each business transaction or series of business transactions that the individual regulated lobbyist had with an individual or business entity listed in subsection (c) of this section that:

- (1) involved the exchange of value of:
  - (i) \$1,000 or more for a single transaction; or
  - (ii) \$5,000 or more for a series of transactions; and
- (2) occurred in the previous reporting period.

(c) *Covered entities.* — An individual regulated lobbyist is subject to the reporting requirements of this subtitle if the individual regulated lobbyist engages in a business transaction with:

- (1) a member of the General Assembly;
- (2) the Governor;
- (3) the Lieutenant Governor;

- (4) the Attorney General;
- (5) the Secretary of State;
- (6) the Comptroller;
- (7) the State Treasurer;
- (8) the secretary of any principal State department;
- (9) the spouse of an individual listed in items (1) through (8) of this subsection;
- (10) a business entity in which an individual listed in items (1) through (9) of this subsection participates as a proprietor or partner; or
- (11) a business entity in which an individual listed in items (1) through (9) of this subsection has an ownership interest of at least 30%.

(d) *Required information.* — The disclosure required under this section shall include:

- (1) the date of the business transaction or dates of each of the series of transactions;
- (2) the name and title of the official who is subject to this section who was involved in each business transaction or series of transactions; and
- (3) the nature and value of anything exchanged.

#### **5-708. Reports of business transactions — Political contributions.**

(a) *In general.* — In addition to any other report required under this subtitle, an individual regulated lobbyist described in § 5-702(a)(1), (2), (3), or (4) of this subtitle shall file a separate report disclosing any political contribution made:

- (1) directly or indirectly by the regulated lobbyist;
- (2) during the reporting period;
- (3) under the Election Law Article; and
- (4) for the benefit of the Governor, Lieutenant Governor, Attorney

General, Comptroller, or member of the General Assembly, or a candidate for election to any of those offices.

(b) *Required information.* — The report shall state:

(1) the name of each official or candidate for whose benefit a political contribution was made; and

(2) the total political contributions for the benefit of that official or candidate.

(c) *Filing.* — The report shall be filed at the time and in the manner required for reports filed under § 5–705 of this subtitle.

### **5–709. Legislative unit meals and receptions.**

(a) *In general.* — A regulated lobbyist who invites all members of a legislative unit to a meal or reception shall, at least 5 days before the date of the meal or reception:

(1) extend a written invitation to all members of the legislative unit; and

(2) register the meal or reception with the Department of Legislative Services on a form required by the Ethics Commission.

(b) *Required information.* — A legislative unit registration report required under subsection (a) of this section shall include:

(1) the date and location of the meal or reception; and

(2) the name of the legislative unit invited.

(c) *Actions by Department of Legislative Services.* — (1) Based on information contained in a legislative unit registration report filed under subsection (a) of this section, the Department of Legislative Services shall publish once a week a list containing the date and location of each upcoming meal or reception and the name of the legislative unit invited.

(2) (i) The Department of Legislative Services shall allow public inspection of any legislative unit registration report required under this section during regular business hours.

(ii) Within 3 business days after receipt of a legislative unit

registration report required under this section, the Department of Legislative Services shall forward the original registration report to the Ethics Commission.

(iii) The Department of Legislative Services shall maintain a photocopy or electronic copy of each registration report required under this section.

(d) *Reporting of cost.* — (1) (i) A regulated lobbyist who is required to register under subsection (a) of this section shall report the total cost of the meal or reception, and the name of each sponsor who contributes to the cost and the amount of the contribution, to the Ethics Commission within 14 days after the date of the meal or reception.

(ii) If any information required under subparagraph (i) of this paragraph is not known within 14 days after the date of the meal or reception, the regulated lobbyist shall, as to the information not known, specify the nature and estimate the amount of each item.

(2) If all of the information required by paragraph (1)(i) of this subsection is reported accurately and completely, the regulated lobbyist is not required to report the cost of the meal or reception under § 5–705(b)(2)(vii) of this subtitle.

(3) The Ethics Commission shall allow public inspection of each registration report required under this subsection during regular business hours.

#### **5–710. Electronic filing; public inspection; oath or affirmation.**

(a) *In general.* — The Ethics Commission shall develop procedures under which a report required under §§ 5–705 through 5–709 of this subtitle:

(1) may be filed electronically without additional cost to the individual who files the report; and

(2) shall be made available for public inspection electronically.

(b) *Oath or affirmation.* — (1) If the report filed electronically under subsection (a) of this section is required to be made under oath or affirmation, the oath or affirmation shall be made by an electronic signature that is:

(i) in the report or attached to and made part of the report;  
and

(ii) made expressly under the penalties of perjury.

(2) An electronic signature made under paragraph (1) of this subsection subjects the individual making the electronic signature to the penalties of perjury to the same extent as an oath or affirmation made before an individual authorized to administer oaths.

**5-711. Gifts to family members.**

This subtitle does not require the disclosure by a regulated lobbyist of any gift to the regulated lobbyist's immediate family if the gift is:

(1) purely personal and private in nature and not related to the regulated lobbyist's lobbying activities; and

(2) from the regulated lobbyist's personal funds and not attributable to any other entity.

**5-712. Additional reports.**

The Ethics Commission may require a regulated lobbyist to file any additional report the Ethics Commission determines to be necessary.

**5-713. Disclosure of statistics; notice to official named in report.**

(a) *Statistics to be disclosed.* — After each reporting period, the Ethics Commission shall compute and make available:

(1) for each of the categories of expenses required to be reported under § 5-705(b)(2) of this subtitle, a total of the expenditures reported by all regulated lobbyists in that category;

(2) for the categories of expenses required to be reported under § 5-705(b)(2)(v) through (vii) of this subtitle, a combined total of the expenditures reported by all regulated lobbyists; and

(3) the total of the reported expenditures by all regulated lobbyists for lobbying activities during the reporting period.

(b) *Notice to official named in report.* — (1) If a report under § 5-705 or § 5-706 of this subtitle contains the name of an official or employee in the Executive Branch or Legislative Branch or the name of a member of the official's or employee's immediate family, the Ethics Commission shall:

(i) notify the official or employee within 30 days after receipt of the report by the Ethics Commission; and

(ii) keep the report confidential for 60 days after its receipt.

(2) Within 30 days after receiving the notice, the official or employee may submit a written exception to the inclusion in the report of the name of the official, employee, or member of the official's or employee's immediate family.

### **5-714. Prohibitions.**

A regulated lobbyist may not:

(1) be engaged for lobbying purposes for compensation that is dependent in any manner on:

(i) the enactment or defeat of legislation;

(ii) the outcome of any executive action relating to the solicitation or securing of a procurement contract; or

(iii) any other contingency related to executive action or legislative action;

(2) initiate or encourage the introduction of legislation for the purpose of opposing the legislation;

(3) knowingly counsel any person to violate any provision of this title or any other State or federal law;

(4) engage in or counsel any person to engage in fraudulent conduct;

(5) while engaging in lobbying activities, knowingly make to an official or employee a statement of material fact relating to lobbying activity that the regulated lobbyist knows to be false;

(6) engage in lobbying without being registered as a regulated lobbyist in accordance with § 5-702 of this subtitle;

(7) request an official or employee to recommend to a potential client the lobbying services of the regulated lobbyist or any other regulated lobbyist;

(8) make a gift, directly or indirectly, to an official or employee if the regulated lobbyist knows or has reason to know the gift is in violation of § 5-505 of this title;

(9) make a gift, directly or indirectly, as a result of a solicitation or facilitation that the regulated lobbyist knows or has reason to know is prohibited under § 5–505(a)(2) of this title;

(10) if the regulated lobbyist is an individual, engage in any charitable fund–raising activity at the request of an official or employee, including soliciting, transmitting the solicitation of, or transmitting a charitable contribution;

(11) make or facilitate the making of any loan of money, goods, or services to an official or employee unless in the ordinary course of business of the regulated lobbyist;

(12) while engaging in lobbying activities on behalf of an entity, knowingly conceal from an official or employee the identity of the entity;

(13) commit a criminal offense arising from lobbying activity; or

(14) if serving on the State or a local central committee of a political party, participate:

(i) as an officer of the central committee;

(ii) in fund–raising activity on behalf of the political party; or

(iii) in actions relating to filling a vacancy in a public office.

#### **5–715. Restriction on certain campaign contributions.**

(a) *Definitions.* — In this section, “candidate”, “contribution”, and “political committee” have the meanings stated in § 1–101 of the Election Law Article.

(b) *Application of section.* — This section applies only to a regulated lobbyist described in § 5–702(a)(1), (2), (3), or (4) of this subtitle.

(2) This section does not apply to a regulated lobbyist who is a candidate with respect to the regulated lobbyist’s own campaign.

(c) *Applicable time period.* — The restrictions in this section apply from the starting date of the regulated lobbyist’s registration to the end of the calendar year in which the registration period ends.

(d) *Restrictions on activities.* — (1) For the benefit of the Governor, Lieutenant Governor, Attorney General, or Comptroller, or a member of the General

Assembly, or a candidate for election to the office of Governor, Lieutenant Governor, Attorney General, Comptroller, or member of the General Assembly, a regulated lobbyist who is subject to this section or a person acting on behalf of the regulated lobbyist may not:

(i) solicit or transmit a political contribution from any person, including a political committee;

(ii) serve on a fund-raising committee or a political committee;

(iii) act as a treasurer for a candidate or an official or as treasurer or chair of a political committee;

(iv) organize or establish a political committee for the purpose of soliciting or transmitting contributions from any person; or

(v) forward tickets for fund-raising activities, or other solicitations for political contributions, to a potential contributor.

(2) This section does not prohibit a regulated lobbyist from:

(i) making a personal political contribution;

(ii) informing any entity of a position taken by a candidate or an official; or

(iii) engaging in other activities not specifically prohibited under paragraph (1) of this subsection.

**5-716. Statement by person providing lobbyist compensation and making contributions.**

(a) *Definitions.* — (1) In this section the following words have the meanings indicated.

(2) “Applicable contribution” means a political contribution or donation or series of political contributions or donations by a person or attributed to a person made to or for the benefit of an applicable recipient.

(3) “Applicable recipient” means a candidate for, or an official holding, the office of:

(i) Governor;



- (ii) Lieutenant Governor;
- (iii) Attorney General;
- (iv) Comptroller; or
- (v) member of the General Assembly.

(4) “Director” has the meaning stated in § 14–101 of the Election Law Article.

(b) *Political contribution to political committee.* — A political contribution made to a political committee for an applicable recipient is deemed a political contribution to the applicable recipient.

(c) *Statement required.* — Subject to subsection (i) of this section, a person shall file a statement in accordance with this section if at any time during the reporting period the person:

(1) spent at least \$500 to provide compensation to one or more regulated lobbyists; and

(2) made or caused to be made an applicable contribution in the cumulative amount of \$500 or more.

(d) *Filing with State Board of Elections.* — A statement required under this section shall be filed with the State Board of Elections.

(e) *Reporting period.* — (1) The reporting period is the 6–month period ending on either April 30 or October 31.

(2) The statement shall be filed on or before the last day of the month immediately following the day on which the reporting period ends.

(f) *Required information.* — The statement required under this section shall be made under oath and state:

(1) the name of each applicable recipient to whom an applicable contribution was made or caused to be made during the reporting period and, if not previously reported, during the preceding reporting period;

(2) the office held or sought by each applicable recipient named in item (1) of this subsection;

(3) the aggregate contributions made to each applicable recipient named in item (1) of this subsection;

(4) the name of each regulated lobbyist employed or retained by the person filing the statement; and

(5) the name of the person who made the political contribution and the relationship of that person to the person filing the statement if a political contribution was made by another person but is attributed to the person filing the statement.

(g) *Business entities.* — If the person filing the statement is a business entity:

(1) (i) an applicable contribution made by an officer, a director, or a partner of the business entity shall be attributed to the business entity; and

(ii) a political contribution, regardless of amount, if made at the suggestion or direction of the business entity, by an officer, a director, a partner, an employee, an agent, or any other person, shall be attributed to the business entity;

(2) each officer, director, or partner of the business entity who makes or causes to be made an applicable contribution shall report the contribution to the chief executive officer of the business entity;

(3) each officer, director, partner, employee, agent, or other person who makes or causes to be made a political contribution, regardless of amount, at the suggestion or direction of the business entity shall report the political contribution to the chief executive officer of the business entity;

(4) applicable contributions made by, or caused to be made by, a subsidiary, at least 30% of the equity of which the business entity owns or controls, shall be attributed to the business entity; and

(5) if a subsidiary described in item (4) of this subsection made an expenditure to provide compensation to one or more regulated lobbyists, the expenditure shall be attributed to the business entity.

(h) *Not-for-profit organizations.* — (1) Notwithstanding subsection (g) of this section, a contribution made by an individual who serves as a trustee or member of the board of directors or as an officer of a not-for-profit organization is not attributable to the organization, and the individual is not required to report the

contribution to the chief executive officer of the organization, unless:

(i) the contribution is made on the recommendation of the not-for-profit organization; or

(ii) the individual who made the contribution is paid by the not-for-profit organization.

(2) The State Board of Elections shall adopt regulations that define “officer” for the purposes of this subsection.

(i) *Filing under Election Law Article.* — A person who files, under Title 14 of the Election Law Article, all information required by this section may satisfy the requirements of this section by submitting a notice to that effect on the form required by the State Board of Elections.

(j) *Duties of State Board of Elections.* — The State Board of Elections shall:

(1) prepare and make available forms for the statement and notice required by this section;

(2) retain each statement filed under this section in the same manner and subject to the same standards of public access as a statement filed under Title 14 of the Election Law Article; and

(3) report any violation of this section to the Ethics Commission.

(k) *Manner of filing.* — The statement required under this section shall be filed in the manner required for statements filed under Title 14 of the Election Law Article.

(l) *Penalties.* — (1) A person who knowingly and willfully fails to comply with the requirements of this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

(2) If a person that violates this section is a business entity, each officer and partner of the business entity who knowingly authorized or participated in violating this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

(3) The State Board of Elections may impose fees for the late filing of a statement required under this section in the same manner as provided under § 14–107 of the Election Law Article.

*Subtitle 8. Local Government Provisions.*

Part I. General Provisions.

**5-801. Definitions.**

(a) *In general.* — In this subtitle the following words have the meanings indicated.

(b) *Lobbying.* — “Lobbying” means performing acts, of a nature comparable to acts requiring registration under Subtitle 7 of this title, before the local government involved.

(c) *Local official.* — (1) In Baltimore City, “local official” includes:

(i) city employees and officials of the Baltimore City Health Department;

(ii) employees and members of the Baltimore City Board of Liquor License Commissioners;

(iii) the Police Commissioner of Baltimore City and the civilian employees and police officers of the Police Department of Baltimore City; and

(iv) members and employees of the Civilian Review Board.

(2) In Baltimore County, “local official” includes:

(i) board members and the chief executive of the Baltimore County Revenue Authority; and

(ii) for the purpose of the financial disclosure provisions enacted by the governing body of Baltimore County, except for a member of the Baltimore County Board of Education, members of a board of a State agency that is wholly or partly funded by Baltimore County, regardless of whether a member is compensated.

(3) In Montgomery County, “local official” includes:

(i) members and employees of the Montgomery County Revenue Authority;

(ii) commissioners and employees of the Montgomery County Housing Opportunities Commission; and

(iii) county employees of the Montgomery County Department of Health and Human Services.

(4) In Prince George’s County, “local official” includes:

(i) members of the Board of License Commissioners;

(ii) inspectors of the Board of License Commissioners, including the chief inspector;

(iii) the administrator of the Board of License Commissioners; and

(iv) the attorney to the Board of License Commissioners.

(5) In St. Mary’s County, “local official” includes commissioners and employees of the St. Mary’s County Metropolitan Commission.

## Part II. Public Ethics Laws for Counties and Municipal Corporations.

### **5–804. “Elected local official” defined.**

In this part, “elected local official” includes:

(1) an individual who holds an elective office of a county or municipal corporation; and

(2) a candidate for elective office as a local official of a county or municipal corporation.

### **5–805. Scope of part.**

This part does not apply to an official or employee of the Judicial Branch of State government.

### **5–806. Effect on other provisions of law.**

The express powers contained in Title 5, Subtitle 2 and Title 10 of the Local Government Article and in Article II of the Charter of the City of Baltimore are intended and shall be deemed to incorporate and include the power and authority contained in this part.

**5–807. Public ethics law required.**

(a) *In general.* — Subject to § 5–209 of this title, each county and each municipal corporation shall enact provisions to govern the public ethics of local officials relating to:

- (1) conflicts of interest;
- (2) financial disclosure; and
- (3) lobbying.

(b) *Certification of compliance.* — On or before October 1 of each year, each local ethics commission or appropriate entity shall certify to the Ethics Commission that the county or municipal corporation is in compliance with the requirements of this part for elected local officials.

**5–808. Conflict of interest laws.**

(a) *In general.* — Except as provided in subsection (b) of this section, the conflict of interest provisions enacted by a county or municipal corporation under § 5–807 of this subtitle:

- (1) shall be similar to the provisions of Subtitle 5 of this title; but
- (2) in accordance with regulations adopted by the Ethics Commission and consistent with the intent of this title, may be modified to the extent necessary to make the provisions relevant to the prevention of conflicts of interest in that jurisdiction.

(b) *Elected local officials.* — The conflict of interest provisions for elected local officials enacted by a county or municipal corporation under § 5–807 of this subtitle:

- (1) shall be equivalent to or exceed the requirements of Subtitle 5 of this title; but
- (2) in accordance with regulations adopted by the Ethics Commission and consistent with the intent of this title, may be modified to the extent necessary to make the provisions relevant to the prevention of conflicts of interest in that jurisdiction.

**5–809. Financial disclosure laws.**

(a) *“Local official” defined.* — In this section, “local official” includes an individual who is designated as a local official and whose position is funded wholly or partly by the State.

(b) *Similarity to State ethics law.* — (1) Except as provided in paragraph (2) of this subsection and subsection (c) of this section, the financial disclosure provisions enacted by a county or municipal corporation under § 5–807 of this subtitle:

(i) shall be similar to the provisions of Subtitle 6 of this title; but

(ii) in accordance with regulations adopted by the Ethics Commission and consistent with the intent of this title, may be modified to the extent necessary to make the provisions relevant to the prevention of conflicts of interest in that jurisdiction.

(2) The financial disclosure provisions for elected local officials enacted by a county or municipal corporation under § 5–807 of this subtitle:

(i) shall be equivalent to or exceed the requirements of Subtitle 6 of this title; but

(ii) in accordance with regulations adopted by the Ethics Commission and consistent with the intent of this title, may be modified to the extent necessary to make the provisions relevant to the prevention of conflicts of interest in that jurisdiction.

(c) *Minimum standards.* — (1) This subtitle does not compel the governing body of a county or municipal corporation to require a local official to file a financial disclosure statement except when the personal interest of the local official will present a potential conflict with the public interest in connection with an anticipated public action of the local official.

(2) The governing body of a county or municipal corporation shall require a local official to file a financial disclosure statement at least annually to report on gifts received by the local official.

(3) The financial disclosure provisions shall require that a statement be filed:

(i) under paragraph (1) of this subsection sufficiently in advance of the action to provide adequate disclosure to the public; and

(ii) by an elected local official under subsection (b)(2) of this section on or before April 30 of each year.

(d) *Standards for candidates.* — Financial disclosure provisions applicable to a candidate shall be consistent with the provisions applicable to an incumbent holding the office involved.

### **5–810. Lobbying.**

The lobbying provisions enacted by a county or municipal corporation under § 5–807 of this subtitle:

(1) shall be substantially similar to the provisions of Subtitle 7 of this title; but

(2) (i) shall be modified to the extent necessary to make the provisions relevant to that jurisdiction; and

(ii) may be further modified to the extent considered necessary and appropriate by and for that jurisdiction.

### **5–811. Special provisions for Prince George’s County.**

(a) *Scope of section.* — This section applies only to Prince George’s County.

(b) *Conflict of interest.* — (1) The conflict of interest provisions required under § 5–807(a)(1) of this subtitle shall prohibit:

(i) the county government from issuing a credit card to an elected county official or a member of the county school board; and

(ii) an elected county official from directly or indirectly soliciting a person to enter into a business relationship with or provide anything of monetary value to a specific individual or entity if the person being solicited is seeking:

1. the success or defeat of county legislation;
2. a county contract; or
3. any other county benefit.

(2) A conflict of interest provision enacted in accordance with



paragraph (1)(ii) of this subsection may not be construed to affect the validity of any legally enacted requirement or condition, proposed and adopted on the public record at a public hearing, the purpose of which is to mitigate the impact of a development on the property owners in the areas surrounding the development, including:

- (i) an adequate public facilities requirement;
- (ii) a minority business requirement; or
- (iii) a community benefit requirement.

(c) *Lobbying.* — The lobbying provisions required under § 5–807(a)(3) of this subtitle shall prohibit a person from being engaged for lobbying purposes for compensation that is dependent in any manner on the outcome of executive action or legislative action before the county government.

(d) *County ethics enactments.* — The county’s ethics enactments shall provide for:

(1) a county board of ethics that meets at least two times each year and is composed of five members appointed by the county executive, with the advice and consent of the county council; and

(2) an executive director of the board of ethics who:

(i) shall meet individually with each elected county official at least annually to advise the official regarding the requirements of any applicable ethics law, rule, or standard of conduct;

(ii) shall assist each elected county official in preparing any affidavit or other document required to be filed under the county’s ethics enactments;

(iii) shall conduct ethics–related briefings for the benefit of elected officials of the county; and

(iv) may provide information to any person regarding laws, rules, and other standards of ethical conduct applicable to elected county officials.

#### **5–812. Enforcement of this part.**

(a) *In general.* — If the Ethics Commission determines that a county or municipal corporation has not complied with and has not made good–faith efforts toward compliance with the requirements of this part, the Ethics Commission:

(1) may issue a public notice concerning the failure of compliance with this part, including a listing of specific areas of noncompliance; and

(2) may petition a circuit court with venue over the proceeding for appropriate relief to compel compliance.

(b) *Equitable relief.* — The circuit court may grant any available equitable relief.

### Part III. Local Boards of Education.

#### **5–815. Scope of part.**

This part governs the conflict of interest standards, financial disclosure requirements, and lobbying regulations of school systems.

#### **5–816. Conflicts of interest.**

(a) *Adoption of regulations.* — In accordance with this section, a school board:

(1) may adopt conflict of interest regulations applicable to officials and employees of the school system; and

(2) shall adopt conflict of interest regulations applicable to members of the school board.

(b) *Similarity to State ethics law.* — (1) The conflict of interest regulations adopted by a school board under subsection (a)(1) of this section:

(i) shall be similar to the provisions of Subtitle 5 of this title; but

(ii) in accordance with regulations adopted by the Ethics Commission and consistent with the intent of this title, may be modified to the extent necessary to make the regulations relevant to the prevention of conflicts of interest in that school system.

(2) The conflict of interest regulations adopted by a school board under subsection (a)(2) of this section:

(i) shall be equivalent to or exceed the requirements of Subtitle 5 of this title; but

(ii) in accordance with regulations adopted by the Ethics Commission and consistent with the intent of this title, may be modified to the extent necessary to make the regulations relevant to the prevention of conflicts of interest in that school system.

(c) *Applicability of county provisions.* — Unless a school board adopts and maintains conflict of interest regulations under subsection (a)(1) of this section, the provisions enacted by the county under § 5–808 of this subtitle shall apply to officials and employees of that school system.

### **5–817. Financial disclosure.**

(a) *Adoption of regulations.* — (1) In accordance with this section, a school board:

(i) may adopt financial disclosure regulations applicable to officials and employees of that school system; and

(ii) shall adopt financial disclosure regulations applicable to members of the school board.

(2) (i) The regulations adopted under paragraph (1)(i) of this subsection shall apply to:

1. the superintendent of that school system; and
2. those other officials and employees of that school system designated by the school board, subject to subparagraph (iii) of this paragraph.

(ii) The regulations adopted under paragraph (1)(ii) of this subsection shall apply to:

1. each member of the school board; and
2. if the school board is an elected board under Title 3, Subtitle 1, Part III of the Education Article, each candidate for election to the school board.

(iii) The regulations may not apply to a classroom teacher unless the teacher has additional duties, not normally expected of classroom teachers, that cause the teacher for other reasons to be covered by the financial disclosure regulations.

(b) *Similarity to State ethics law.* — (1) Except as provided in subsection (c) of this section, the regulations adopted under subsection (a)(1)(i) of this section:

(i) shall be similar to the provisions of Subtitle 6 of this title; but

(ii) in accordance with regulations adopted by the Ethics Commission and consistent with the intent of this title, may be modified to the extent necessary to make the regulations relevant to the prevention of conflicts of interest in that school system.

(2) The regulations adopted under subsection (a)(1)(ii) of this section:

(i) shall be equivalent to or exceed the requirements of Subtitle 6 of this title; but

(ii) in accordance with regulations adopted by the Ethics Commission and consistent with the intent of this title, may be modified to the extent necessary to make the regulations relevant to the prevention of conflicts of interest in that school system.

(c) *Minimum standards.* — (1) (i) This section does not compel a school board to require an individual to file a financial disclosure statement except:

1. when the personal interest of the individual will present a potential conflict with the public interest in connection with an anticipated public action of the individual; and

2. at least annually to report on gifts received by the individual.

(ii) The regulations adopted under subsection (a)(1)(i) of this section shall require that a statement filed under subparagraph (i)1 of this paragraph be filed sufficiently in advance of the public action to provide adequate disclosure to the public.

(2) The regulations adopted under subsection (a)(1)(ii) of this section shall require that a statement filed by a member of a school board be filed on or before April 30 of each year.

(d) *Applicability.* — Except as provided for a school board member under

this part, unless a school board adopts and maintains financial disclosure regulations under this subtitle, the provisions enacted by the county under § 5–809 of this subtitle shall apply to:

- (1) the superintendent of that school system; and
- (2) the other officials and employees of the school system designated by the governing body of that county.

#### **5–818. Lobbying.**

(a) *Adoption of regulations.* — In accordance with this section, a school board may adopt regulations relating to lobbying of members of the school board and of officials and employees of the school system.

(b) *Similarity to State ethics law.* — The lobbying regulations adopted by a school board under subsection (a) of this section:

(1) shall be substantially similar to the provisions of Subtitle 7 of this title; but

(2) (i) may be modified to the extent necessary to make the provisions relevant to that school system; and

(ii) may be further modified to the extent considered necessary and appropriate by and for that school system.

(c) *Applicability of county provisions.* — Unless a school board adopts and maintains lobbying regulations under this subtitle, the provisions enacted by the county under § 5–810 of this subtitle shall apply to that school system.

#### **5–819. Approval of regulations.**

(a) *Submission.* — A school board shall submit regulations adopted under this part, and amendments to adopted regulations, to the Ethics Commission for review and approval or disapproval.

(b) *Approval and effective date.* — If the Ethics Commission does not disapprove a regulation or an amendment to a regulation within 60 days after its submission, the regulation or amendment is deemed to have been approved and becomes effective.

(c) *Disapproval.* — (1) The Ethics Commission may disapprove a regulation or an amendment to a regulation only if the Ethics Commission finds

that the regulation or amendment is not in substantial compliance with this part.

(2) If the Ethics Commission disapproves a regulation or an amendment, the Ethics Commission shall promptly notify the school board of the action.

(d) *Assistance from Ethics Commission.* — On request of a school board, the Ethics Commission shall advise and assist the school board in preparing regulations that comply with this part.

#### **5–820. Enforcement of this part.**

(a) *In general.* — If the Ethics Commission determines that a school board, as required under § 5–816(a)(2) of this subtitle, has not complied with and has not made good-faith efforts toward compliance with the requirements of this Part III, the Ethics Commission:

(1) may issue a public notice concerning the failure of compliance with this part, including a listing of specific areas of noncompliance;

(2) may issue an order providing that officials and employees of the school board are subject to the local ethics laws in the county in which the school board is located; and

(3) may petition a circuit court with venue over the proceeding for appropriate relief to compel compliance.

(b) *Equitable relief.* — The circuit court may grant any available equitable relief.

#### Part IV. Public Ethics for Bicounty Commissions.

#### **5–822. “Commissioner” defined.**

In this part, “commissioner” means a commissioner of a bicounty commission.

#### **5–823. Adoption of conflict of interest regulations.**

(a) *In general.* — Each bicounty commission shall adopt regulations relating to conflicts of interest of its employees.

(b) *Similarity to State ethics law.* — At a minimum, the conflict of interest standards applicable to public officials under Subtitle 5 of this title shall apply to the employees of each bicounty commission.

(c) *Copy to Ethics Commission.* — Each bicounty commission shall file with the Ethics Commission a copy of its regulations relating to conflicts of interest.

(d) *Annual report.* — Each bicounty commission shall:

(1) prepare an annual report on its conflict of interest issues and regulations during the year covered; and

(2) submit the report to the governing body of each county in which the bicounty commission operates.

#### **5–824. Financial disclosure by commissioners.**

(a) *Applicability to Washington Suburban Transit Commission.* — In this section, as to the Washington Suburban Transit Commission, “commissioner” includes the members appointed from Montgomery County or Prince George’s County and the members appointed by the Governor.

(b) *In general.* — (1) Each commissioner and each applicant for appointment to a bicounty commission shall file the financial disclosure statement required by § 5–601(a) of this title, except that:

(i) references to “business with the State” are deemed to refer to “business with the State, the appropriate bicounty commission, Montgomery County, or Prince George’s County”; and

(ii) references to “employed by the State” are deemed to refer to “employed by the State, the appropriate bicounty commission, Montgomery County, or Prince George’s County”.

(2) Except as otherwise provided in this section, the statement shall be filed as required in § 5–602 of this title.

(c) *Forms to be provided.* — The executive director of a bicounty commission shall:

(1) provide forms for the statements required by this section;

(2) make the forms available in the office of the executive director;

and

(3) provide enough forms to the chief administrative officers of Montgomery County and Prince George's County for use by applicants and commissioners.

(d) *Place of filing.* — (1) Each commissioner shall file the statement with the chief administrative officer of the county from which the commissioner is appointed.

(2) Commissioners of the Washington Suburban Transit Commission also shall file a financial disclosure statement with the Ethics Commission.

(e) *Washington Suburban Transit Commission — Alternate filing.* — (1) If a commissioner of the Washington Suburban Transit Commission holds another public office and is required to file a financial disclosure statement under another State or local law, the commissioner may comply with subsection (b) of this section by submitting a copy of the statement filed in accordance with the other law.

(2) The statement shall be supplemented to include any additional information required by this section.

#### **5-825. Financial disclosure by commissioners — Applicants.**

(a) *In general.* — An applicant for appointment as commissioner shall file the financial disclosure statement required by this part in accordance with this section.

(b) *Place of filing.* — The statement shall be filed with the county council and the chief administrative officer of the county from which the applicant seeks appointment.

(c) *Maryland-National Capital Park and Planning Commission applicants.* — (1) (i) In Montgomery County, an applicant for appointment or reappointment to the Maryland-National Capital Park and Planning Commission shall file the statement at least 5 days before the interview conducted under § 15-104 of the Land Use Article.

(ii) The statement shall cover the 12-month period ending 60 days before the day the statement is filed.

(2) (i) In Prince George's County, an applicant for appointment to the Maryland-National Capital Park and Planning Commission shall file the statement at least 5 days before the confirmation hearing conducted under § 15-103 of the Land Use Article.



(ii) The statement shall cover the 12-month period ending 60 days before the initial date set for the confirmation hearing.

(d) *Washington Suburban Sanitary Commission applicants.* — (1) An applicant for appointment to the Washington Suburban Sanitary Commission shall file the statement at least 5 days before the interview conducted under § 17-103 of the Public Utilities Article.

(2) The statement shall cover the 12-month period ending 60 days before the day the statement is filed.

(e) *Washington Suburban Transit Commission applicants.* — (1) An applicant for appointment to the Washington Suburban Transit Commission shall file the statement at least 10 days before the appointment becomes effective.

(2) The statement shall cover the 12-month period ending not more than 60 days before the day the statement is filed.

#### **5-826. Transmittal and retention of financial disclosure statements.**

(a) *Transmittal of statements.* — The chief administrative officer of a county shall transmit each financial disclosure statement of a commissioner or appointed applicant to:

- (1) the Ethics Commission; and
- (2) the executive director of the appropriate bicounty commission.

(b) *Retention of statements.* — The executive director and the chief administrative officer shall retain the statement for the entire term of office of the commissioner.

(c) *Statements of applicants not appointed.* — Within 15 days after an appointment to a bicounty commission has become final, the county council and the chief administrative officer of the county involved shall return to each applicant who is not appointed the original and all copies of the statement submitted by that applicant.

#### **5-827. Examination and copying of financial disclosure statements.**

(a) *Public inspection.* — The Ethics Commission, the executive director of each bicounty commission, and the chief administrative officer of each county:

(1) shall maintain financial disclosure statements of commissioners and appointed applicants received under this part;

(2) shall make the statements available to the public for examination and copying during normal office hours; and

(3) may charge a reasonable fee and adopt reasonable administrative procedures for the examination and copying of a statement.

(b) *Information about examining or copying statements.* — The Ethics Commission, the executive director of each bicounty commission, and the chief administrative officer of each county shall require that any person examining or copying a statement shall record:

(1) the person's name and home address; and

(2) the name of the individual whose statement was examined or copied.

#### **5-828. Suspension of compensation.**

If a mandatory injunction is issued against a commissioner under Subtitle 9 of this title, the appropriate bicounty commission shall suspend payment of any salary or other compensation to the commissioner until the commissioner complies fully with the injunction.

#### **5-829. Financial disclosure by employees.**

(a) *In general.* — Each bicounty commission shall adopt regulations relating to financial disclosure by its employees.

(b) *Similarity to State standards.* — The regulations required by this section:

(1) shall be substantially similar to the State financial disclosure provisions of Subtitle 6 of this title; and

(2) may not conflict with the financial disclosure provisions for commissioners and applicants specified in §§ 5-824 through 5-828 of this subtitle.

(c) *Copy to Ethics Commission and county governing body.* — Each bicounty commission shall submit the regulations adopted under this section, and any amendments to the regulations, to:

(1) the Ethics Commission; and

(2) the governing body of each county in which the bicounty commission operates.

**5-830. Lobbying regulations for bicounty commissions.**

(a) *In general.* — Each bicounty commission shall adopt regulations relating to lobbying of that bicounty commission.

(b) *Similarity to State standards.* — At a minimum, the regulations adopted by a bicounty commission shall be similar to the provisions of Subtitle 7 of this title.

(c) *Copy to Ethics Commission.* — Each bicounty commission shall submit to the Ethics Commission a copy of its regulations relating to lobbying.

(d) *Annual report.* — Each bicounty commission shall:

(1) prepare an annual report on the lobbying before the bicounty commission and regulation of that lobbying by the bicounty commission; and

(2) submit the report to the governing body of each county in which the bicounty commission operates.

Part V. Regional District — Special Provisions for Prince George’s County.

**5-833. Definitions.**

(a) *In general.* — In this part the following words have the meanings indicated.

(b) *Agent.* — (1) “Agent” means an individual or a business entity hired or retained by an applicant for any purpose relating to the land that is the subject of an application if the individual or business entity is:

(i) an accountant;

(ii) an attorney;

(iii) an architect;

(iv) an engineer;

- (v) a land use consultant;
- (vi) an economic consultant;
- (vii) a real estate agent;
- (viii) a real estate broker;
- (ix) a traffic consultant; or
- (x) a traffic engineer.

(2) “Agent” includes:

(i) as to a corporation described in paragraph (1) of this subsection, its officers, directors, and majority stockholders who are engaged in substantive activities pertaining specifically to land development in Prince George’s County as a regular part of their ongoing business activities;

(ii) as to a partnership or limited partnership described in paragraph (1) of this subsection, its general partners and limited partners who are engaged in substantive activities pertaining specifically to land development in Prince George’s County as a regular part of their ongoing business activities; and

(iii) as to a joint venture described in paragraph (1) of this subsection, the principal members of the joint venture who are engaged in substantive activities pertaining specifically to land development in Prince George’s County as a regular part of their ongoing business activities.

(c) *Applicant.* — (1) “Applicant” means an individual or a business entity that is:

(i) a title owner or contract purchaser of land that is the subject of an application;

(ii) a trustee that has an interest in land that is the subject of an application, excluding a trustee described in a mortgage or deed of trust; or

(iii) a holder of at least a 5% interest in a business entity that has an interest in land that is the subject of an application but only if:

1. the holder of at least a 5% interest has substantive involvement in directing the affairs of the business entity with an interest in the land that is the subject of an application with specific regard to the disposition of

that land; or

2. the holder of at least a 5% interest is engaged in substantive activities specifically pertaining to land development in Prince George's County as a regular part of the business entity's ongoing business activities.

(2) "Applicant" includes:

(i) any business entity in which a person described in paragraph (1) of this subsection holds at least a 5% interest; and

(ii) the directors and officers of a corporation that actually holds title to the land, or is a contract purchaser of the land, that is the subject of an application.

(3) "Applicant" does not include:

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

(ii) a municipal corporation or public corporation;

(iii) a public authority;

(iv) a public utility regulated by the Public Service Commission in any instance where the utility is engaged in or conducting regulated activities that have been approved by the Public Service Commission or are allowed under Division I of the Public Utilities Article; or

(v) the directors and officers of any entity that does not hold title to the land, or is not the contract purchaser of the land, that is the subject of an application.

(d) *Application.* — "Application" means:

(1) an application for:

(i) a zoning map amendment;

(ii) a special exception;

(iii) a departure from design standards;

- (iv) a revision to a special exception site plan;
  - (v) an expansion of a legal nonconforming use;
  - (vi) a revision to a legal nonconforming use site plan; or
  - (vii) a request for a variance from the zoning ordinance;
- (2) an application to approve:
- (i) a comprehensive design plan;
  - (ii) a conceptual site plan; or
  - (iii) 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.

(e) *Business entity*. — “Business entity” means:

- (1) a corporation;
- (2) a general partnership;
- (3) a joint venture;
- (4) a limited liability company;
- (5) a limited partnership; or
- (6) a sole proprietorship.

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

(g) *Continuing political committee*. — “Continuing political committee” means a committee specifically created to promote the candidacy of a member running for any elective office.

(h) *Contributor*. — “Contributor” means a person or business entity that

makes a payment.

(i) *County Council.* — “County Council” means the County Council of Prince George’s County.

(j) *County Executive.* — “County Executive” means the County Executive of Prince George’s County.

(k) *District Council.* — “District Council” means the County Council of Prince George’s County sitting as the District Council for the Prince George’s County portion of the Maryland–Washington Regional District.

(l) *Member.* — “Member” 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.* — “Payment” means a payment or contribution of money or property or the incurring of a liability or promise of anything of value to a treasurer of a candidate, a candidate’s continuing political committee, or a slate to which the candidate belongs.

(n) *Pendency of the application.* — (1) “Pendency of the application” means the time between the acceptance of a filing of an application by the appropriate agency and expiration of the time under which an appeal on the application may be taken.

(2) “Pendency of the application” does not include a period during which:

- (i) action on the application is under judicial review; or
- (ii) judicial review may be requested.

(o) *Political action committee.* — “Political action committee” means a political committee that is not:

- (1) a political party;
- (2) a central committee;
- (3) a slate; or
- (4) a political committee organized and operated by, and solely on behalf of, an individual running for any elective office or a slate.

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

(q) *Treasurer*. — (1) “Treasurer” has the meaning stated in § 1–101 of the Election Law Article.

(2) “Treasurer” includes a subtreasurer.

#### **5–834. Powers enumerated in Land Use Article.**

Notwithstanding any other provision of law, the provisions of Division II of the Land Use Article affecting that part of the Maryland–Washington Regional District in Prince George’s County shall be carried out in accordance with this part.

#### **5–835. Applications.**

(a) *Prohibited payments*. — An applicant or agent of the applicant may not make a payment to a member or the County Executive, or a slate that includes a member or the County Executive, during the pendency of the application.

(b) *Participation in proceedings; payments during preceding 36–month period*. — (1) After an application has been filed, a member may not vote or participate in any way in the proceeding on the application if the member’s treasurer or continuing political committee, or a slate to which the member belongs or belonged during the 36–month period before 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) a transfer to the member’s treasurer, a continuing political committee, or a slate to which the member belongs or belonged during the 36–month period before the filing of the application was made by a political action committee to which an applicant or agent had made a payment;

(ii) the applicant or agent made the payment to the political action committee without any intent to subvert the purposes of this subtitle;

(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



(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) *Affidavit by applicant.* — (1) After an application is filed, the applicant shall file an affidavit under oath:

(i) 1. stating to the best of the applicant's information, knowledge, and belief that 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 a member's treasurer, a member's continuing political committee, or a slate to which the member belongs or belonged during the 36-month period before the filing of the application; or

2. if any such payment was made, disclosing the name of the member to whose treasurer or continuing political committee, or slate to which the member belongs or belonged during the 36-month period before the filing of the application, the payment was made;

(ii) 1. stating to the best of the applicant's information, knowledge, and belief that 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 a member's treasurer, a member's continuing political committee, or a slate to which the member belongs or belonged during the 36-month period before the filing of the application; or

2. if any such solicited payment was made, disclosing the name of the member to whose treasurer or continuing political committee, or slate to which the member belongs or belonged during the 36-month period before the filing of the application, the payment was made; and

(iii) 1. stating to the best of the applicant's information, knowledge, and belief that 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 a member's treasurer, a member's continuing political committee, or a slate to which the member belongs or belonged during the 36-month period before the filing of the application; or

2. if any such payment was made, disclosing the name of the member to whose treasurer or continuing political committee, or slate to which the member belongs or belonged during the 36-month period before the filing of the application, the payment was made.

(2) The affidavit shall be filed at least 30 calendar days before consideration of the application by the District Council.

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

(4) (i) An applicant is not required to make any representations in the affidavit pertaining to the actions of anyone other than that applicant.

(ii) Anyone with authority to act on behalf of and bind a business entity may execute an affidavit on behalf of the business entity.

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

(d) *Affidavit by agent.* — (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, a member's continuing political committee, or a slate to which the member belongs or belonged during the 36-month period before the filing of the application; or

2. the agent has solicited any person to make a payment to a member's treasurer, a member's continuing political committee, or a slate to which the member belongs or belonged during the 36-month period before the filing of the application.

(2) Notwithstanding 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) *Applicability of part.* — (1) Except as provided in paragraph (2) of this subsection, a contributor, a member, or a political action committee is subject to this part if a payment is made by the contributor or a transfer is made by the political action committee to:

(i) the candidate;

(ii) the candidate's continuing political committee; or

(iii) a slate to which the member belongs or belonged during the 36-month period before the filing of the application.

(2) This part does not apply to:

(i) any transfer to the continuing political committee of a member by the continuing political committee of another individual running for elective office; or

(ii) a payment or transfer to the Prince George's County 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.

(f) *Circumventing intent of part prohibited.* — An applicant or agent may not take any action, directly or indirectly, with the intent to circumvent the intent of this part.

### **5-836. Disclosure of ex parte communication.**

(a) *In general.* — An ex parte communication concerning a pending application between an applicant or applicant's agent and a member or the County Executive shall be disclosed as required in this section.

(b) *By applicant.* — An applicant or agent who communicates ex parte during the pendency of the application with a member or with the County Executive shall file, for each ex parte communication, a separate disclosure with the clerk of the County Council within 5 working days after the communication was made or received, whichever is later.

(c) *By County Executive or member.* — The County Executive or a member who communicates ex parte during the pendency of the application with an applicant or agent shall file, for each ex parte communication, a separate disclosure with the clerk of the County Council within 5 working days after the communication

was made or received, whichever is later.

**5–837. Evidence of payments or ex parte communication.**

At any time before final action on an application, a party of record may file with the clerk of the County Council competent evidence of:

- (1) a payment or contribution by an applicant or agent covered under § 5–835 of this subtitle; or
- (2) an ex parte communication covered under § 5–836 of this subtitle.

**5–838. Enforcement of part.**

(a) *Direction and control of Ethics Commission.* — In the enforcement of this part, the clerk of the County Council shall be subject to the direction and control of the Ethics Commission or its Executive Director and, unless otherwise specifically directed by the Ethics Commission or its Executive Director, may only:

- (1) receive filings;
- (2) maintain records;
- (3) report violations; and
- (4) perform other ministerial duties necessary to administer this part.

(b) *Filing of affidavit by corporation.* — Notwithstanding any other provision of this part, as to a corporation listed on a national stock exchange or regulated by the Securities and Exchange Commission, and any subsidiary of the corporation, the following requirements apply if the filing of an affidavit is otherwise required under this part:

- (1) a director or an officer in the corporation or any of its subsidiaries, or a stockholder who has at least a 5% interest in the corporation or any of its subsidiaries, is required to file an affidavit only if the individual has made a payment to the treasurer of a candidate or continuing political committee, or if the individual has solicited anyone to make a payment to the treasurer of a candidate or continuing political committee; and
- (2) the corporation or its subsidiary shall file a corporate affidavit stating:

(i) 1. that the corporation has not made or solicited a payment to the treasurer of a candidate or continuing political committee; or

2. if such a payment was made, the name of the member to whose treasurer or continuing political committee the payment was made; and

(ii) that all directors, officers, and stockholders with at least a 5% interest have been notified of the disclosure requirements of item (1) of this subsection.

(c) *Filing of affidavits; summary reports.* — (1) The affidavits and disclosures required under this part shall be filed in the appropriate case file of an application.

(2) The clerk of the County Council, at least twice each year, shall prepare a summary report compiling all affidavits and disclosures that have been filed in the application case files.

(3) All summary reports compiled under paragraph (2) of this subsection shall be available to members of the public on written request.

(4) All affidavits, disclosures, and accompanying documentation required under this part shall be in the form required by the Ethics Commission.

### **5-839. Injunctive or other relief; penalties; preservation of documents.**

(a) *Petition for injunctive or other relief.* — (1) The Ethics Commission or any other aggrieved person may:

(i) file a petition for injunctive or other relief in the Circuit Court for Prince George's County to require compliance with this part; and

(ii) assert as error any violation of this part in judicial review requested under § 22-407 of the Land Use Article.

(2) The Court shall issue an order voiding an official action taken by the County Council if:

(i) the action taken by the County Council was in violation of this part; and

(ii) the legal action was brought within 30 days after the

occurrence of the official action.

(3) The Court, after hearing and considering all the circumstances in the case and voiding an action of the County Council, shall reverse, or reverse and remand, the case to the District Council for reconsideration.

(b) *Penalties.* — (1) A person who knowingly and willfully violates this part is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

(2) If the person is a business entity and not a natural person, each officer and partner of the business entity who knowingly authorized or participated in the violation is guilty of a misdemeanor and on conviction is subject to the same penalties as the business entity.

(3) A member is guilty of violating this part only if the member fails to abstain from voting or participating in a proceeding, based on information contained in an affidavit filed with the County Council by an applicant or agent, in violation of § 5–835(b) of this subtitle.

(4) An action taken in reliance on an opinion of the Ethics Commission may not be deemed a knowing and willful violation.

(c) *Preservation of documents.* — (1) A person who is subject to this part shall preserve all accounts, bills, receipts, books, papers, and other documents necessary to complete and substantiate any reports, statements, or records required to be made under this part for 3 years from the date of filing the application.

(2) The documents shall be available for inspection on request of the Ethics Commission after reasonable notice.

## Part VI. Regional District — Special Provisions for Montgomery County.

### **5–842. Definitions.**

(a) *In general.* — In this part the following words have the meanings indicated.

(b) *Applicant.* — (1) (i) “Applicant” means an individual or a business entity that is:

1. a title owner or contract purchaser of land that is the subject of an application;

2. a trustee who has an interest in land that is the subject of an application, excluding a trustee described in a mortgage or deed of trust; or

3. a holder of at least a 5% interest in a business entity who has an interest in land that is the subject of an application.

(ii) “Applicant” includes, if the applicant is a corporation, the directors and officers of the corporation that actually holds title to the land, or is a contract purchaser of the land, that is the subject of an application.

(2) “Applicant” does not include:

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

(ii) a municipal corporation or public corporation;

(iii) a public authority;

(iv) a public service company acting within the scope of Division I of the Public Utilities Article; or

(v) a person who is hired or retained as an accountant, an attorney, an architect, an engineer, a land use consultant, an economic consultant, a real estate agent, a real estate broker, a traffic consultant, or a traffic engineer.

(c) *Application*. — “Application” means an application for a local map amendment, including a reclassification.

(d) *Business entity*. — “Business entity” means:

(1) a corporation;

(2) a general partnership;

(3) a joint venture;

(4) a limited liability company;

(5) a limited partnership; or

(6) a sole proprietorship.

(e) *Candidate.* — “Candidate” means an individual who wins an election to the Office of County Executive or County Council of Montgomery County.

(f) *Contribution.* — (1) (i) “Contribution” means:

1. a payment or transfer of money or property of \$500 or more, calculated cumulatively during a 4–year election cycle, to the treasurer of either a candidate or a political committee; or

2. the incurring of any liability or promise of anything of value of \$500 or more, calculated cumulatively during a 4–year election cycle, to the treasurer of either a candidate or a political committee.

(ii) “Contribution” includes a payment or transfer to a slate with which a candidate is associated.

(2) (i) Except as provided in subparagraph (ii) of this paragraph, the \$500 cumulative threshold contribution is calculated separately as to each candidate or elected official.

(ii) For purposes of this part, a cumulative contribution of \$500 or more to a slate is fully attributed to each candidate on the slate.

(g) *Contributor.* — “Contributor” means an individual or business entity that makes a contribution.

(h) *Elected official.* — “Elected official” means an individual who holds the Office of County Executive or member of the County Council of Montgomery County.

(i) *Party of record.* — (1) “Party of record” means an individual or a business entity that is granted standing to participate in a local map amendment proceeding by the County Council, sitting as the District Council, or its hearing examiner.

(2) “Party of record” does not include an attorney, a consultant, an employee, or any other agent of a party of record, including an authorized representative of a community association who is participating in a proceeding solely on behalf of the association.

(j) *Political action committee.* — “Political action committee” means a political committee that is not:



- (1) a political party;
- (2) a central committee;
- (3) a slate; or

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

(k) *Political committee.* — “Political committee” means any combination of two or more persons appointed by a candidate or any other person or formed in any other manner that assists or attempts to assist in any manner the promotion of the success or defeat of any candidate, candidates, political party, principle, or proposition submitted to a vote in any election.

(l) *Slate.* — (1) “Slate” means a political committee of two or more candidates who join together to conduct and pay for joint activities.

(2) “Slate” does not include a political party or a central committee.

(m) *Treasurer.* — (1) “Treasurer” has the meaning stated in § 1–101 of the Election Law Article.

(2) “Treasurer” includes a subtreasurer.

### **5–843. Disclosure statements.**

(a) *In general.* — An applicant or party of record who makes a contribution during the 4–year election cycle before the filing of the application or during the pendency of the application shall disclose the contribution in accordance with this section.

(b) *Contents; filing; time limitations.* — (1) (i) On filing an application, an applicant shall submit a disclosure statement that:

1. names each candidate or elected official to whose treasurer or political committee the applicant made a contribution; and

2. states the amount and the date of the contribution.

(ii) If a contribution was not made, the disclosure statement shall so state.

(2) The disclosure statement shall be filed:

(i) on a form approved by the County Council, which shall contain:

1. an affirmation clause to be signed by the applicant under the penalties of perjury that the contents of the disclosure statement are true to the best of the applicant's knowledge, information, and belief; and

2. a notice that noncompliance with this subtitle may result in a fine not exceeding \$1,000; and

(ii) with the Chief Hearing Examiner of the Office of Zoning and Administrative Hearings, unless the County Council determines otherwise.

(3) Within 2 weeks after entering a proceeding, a party of record that has made a contribution shall submit a disclosure statement as described under paragraph (2) of this subsection.

(4) A contribution made after the filing of the initial disclosure and before the final disposition of the application by the District Council shall be disclosed within 5 business days after the contribution.

(c) *Applicability of part.* — (1) Except as provided in paragraph (2) of this subsection, a contributor is subject to this part if the contributor makes a contribution to a candidate, a slate, or a candidate's political committee.

(2) This part does not apply to a transfer by a political action committee to a candidate or to the political committee of a candidate or an elected official.

(d) *Records – Custodian; inspection.* — (1) The Chief Hearing Examiner of the Office of Zoning and Administrative Hearings:

(i) is the official custodian of records filed under this part; and

(ii) shall prepare a summary report at least twice each calendar year compiling all affidavits and disclosures that have been filed.

(2) A summary report and disclosure statement filed under this part shall be a matter of public record and available for inspection on written request.

**5–844. Violations; penalty; enforcement.**

(a) *Violations; penalty.* — A person who knowingly and willfully violates this part is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000.

(b) *Violation by business entity.* — If the person is a business entity and not a natural person, each officer and partner of the business entity who knowingly authorized or participated in the violation is guilty of a misdemeanor and on conviction is subject to the same penalties as the business entity.

(c) *Enforcement.* — This part shall be enforced by the State’s Attorney for Montgomery County.

**5–845. Accuracy of disclosure statements.**

(a) *No legal duty to verify.* — The County Council has no legal duty to verify the accuracy of any disclosure statement filed under this part.

(b) *No grounds to invalidate County Council decision.* — Failure by any person, including the Chief Hearing Examiner of the Office of Zoning and Administrative Hearings, to comply with this part is not grounds for invalidation of any decision by the County Council, sitting as the District Council, for which a disclosure statement is required.

Part VII. Lobbying Disclosure — Special Provisions for Montgomery and Prince George’s Counties.

**5–848. Definitions.**

(a) *In general.* — In this part the following words have the meanings indicated.

(b) *Candidate.* — “Candidate” has the meaning stated in § 1–101 of the Election Law Article, but only as it applies to a candidate seeking election as a local official.

(c) *Contribution.* — “Contribution” has the meaning stated in § 1–101 of the Election Law Article.

(d) *Lobbyist.* — “Lobbyist” means a person required to register under § 2–295 of the Prince George’s County Code or § 19A–21 of the Montgomery County Code.

(e) *Local official.* — “Local official” means:

(1) a member of the County Council of Prince George’s County or the County Executive of Prince George’s County; or

(2) a member of the County Council of Montgomery County or the County Executive of Montgomery County.

(f) *Political Committee.* — “Political committee” has the meanings stated in § 1–101 of the Election Law Article.

**5–849. Restrictions on lobbying activity.**

(a) *Fund-raising restrictions.* — Beginning with the effective date of a lobbying registration and extending through the ending date of the registration period, a lobbyist who lobbies a local official, or a person acting on behalf of the lobbyist, may not:

(1) solicit or transmit directly or indirectly a contribution from any person, including a political committee, for the benefit of a local official or candidate;

(2) serve on a fund-raising committee of, or a political committee for the benefit of, a local official or candidate; or

(3) act as a treasurer or chair of a political committee for the benefit of a local official or candidate.

(b) *Allowed activities.* — This part may not be construed to prohibit a lobbyist from:

(1) making a personal contribution within the limitations established under the Election Law Article; or

(2) informing the lobbyist’s employer or others of the positions taken by a particular candidate.

(c) *Violation; penalties.* — (1) A person who knowingly and willfully violates this part is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1 year or both.

(2) If the person is a business entity and not a natural person, each officer and partner of the business entity who knowingly authorized or participated in the violation is guilty of a misdemeanor and on conviction is subject to the same penalties as the business entity.

Part VIII. Special Provisions for Howard County.

**5-852. Definitions.**

(a) *In general.* — In this part the following words have the meanings indicated.

(b) *Applicant.* — (1) “Applicant” means an individual or a business entity that is, with regard to the land that is the subject of an application:

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

(ii) a trustee that has an interest in the land, excluding a trustee described in a mortgage or deed of trust; or

(iii) a holder of at least a 5% interest in a business entity that has an interest in the land if:

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

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

(2) “Applicant” includes:

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

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

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

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

(iii) as to an application for a zoning regulation, any person authorized to sign the application.

(3) “Applicant” does not include:

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

(ii) a municipal corporation or public corporation;

(iii) a public authority;

(iv) a public service company acting within the scope of Division I of the Public Utilities Article; or

(v) a person who is:

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

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

(c) *Application.* — “Application” means:

(1) an application for a zoning map amendment;

(2) an application for a zoning regulation amendment; or

(3) participation in the adoption and approval of a comprehensive zoning plan by appearing at a public hearing, filing a statement in an official record, or engaging in other similar communication with an elected official, where the intent is to change the classification or increase the density of the land of the applicant.

(d) *Business entity.* — “Business entity” means:

(1) a corporation;

(2) a general partnership;

(3) a joint venture;

- (4) a limited liability company;
- (5) a limited partnership; or
- (6) a sole proprietorship.

(e) *Candidate.* — “Candidate” means a candidate for election as Howard County Executive, or to the Howard County Council, who becomes an elected official.

(f) *Contribution.* — “Contribution” means any payment or transfer of money or property or the incurring of any liability or promise of anything of value to the treasurer of a candidate, a political committee, or a slate.

(g) *Contributor.* — “Contributor” means an individual or business entity that makes a contribution.

(h) *Elected official.* — “Elected official” means an individual who serves as Howard County Executive or as a member of the Howard County Council.

(i) *Engaging in business.* — (1) “Engaging in business” means entering into:

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

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

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

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

(k) *Party of record.* — “Party of record” means an individual or business entity that participates in a map amendment proceeding by the County Council or the zoning board, or who participates in the adoption and approval of a comprehensive zoning plan by appearing at a public hearing, filing a statement in an official record, or engaging in other similar communication with an elected

official where the intent is to oppose a change in classification or an increase in density of the land of an applicant.

(l) *Political action committee.* — “Political action committee” means a political committee that is not:

(1) a political party;

(2) a central committee;

(3) a slate; or

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

(m) *Political committee.* — “Political committee” means a committee, whether continuing or noncontinuing, specifically created to promote the candidacy of a person running for elective office.

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

(o) *Treasurer.* — (1) “Treasurer” has the meaning stated in § 1–101 of the Election Law Article.

(2) “Treasurer” includes a subtreasurer.

### **5–853. Contributions made by applicants.**

(a) *Affidavit.* — (1) When an application is filed, the applicant shall file an affidavit, under oath, stating whether the applicant:

(i) has made any contribution or contributions having a cumulative value of at least \$500 to the treasurer of a candidate or the treasurer of a political committee during the 48–month period before the application is filed, to the best of the applicant’s information, knowledge, and belief; or

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

(2) (i) 1. Except as provided in subparagraph 2 of this subparagraph, if the applicant or a party of record or a family member has made a contribution or contributions having a cumulative value of at least \$500 during the 48–month period before the application was filed or during the pendency of the application, the applicant or the party of record shall file a disclosure providing the



name of the candidate or elected official to whose treasurer or political committee the contribution was made, the amount, and the date of the contribution.

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

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

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

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

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

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

- (i) the candidate;
- (ii) a slate; or
- (iii) the candidate's political committee.

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

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

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

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

(f) *Later contributions.* — A contribution made after the filing of the initial disclosure and before final disposition of the application by the County Council shall be disclosed within 5 business days after the contribution.

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

- (1) receive filings of affidavits and disclosures;
- (2) maintain filed affidavits and disclosures as public records available for review by the general public during normal business hours;
- (3) report violations to the Howard County Ethics Commission; and
- (4) perform ministerial duties necessary to administer this part.

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

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

#### **5–854. Violations.**

(a) *Penalty.* — (1) A person who knowingly and willfully violates this part is subject to a fine not exceeding \$5,000.

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

(b) *Preservation of documents.* — (1) A person who is subject to this part shall preserve all accounts, bills, receipts, books, papers, and other documents necessary to complete and substantiate any reports, statements, or records required to be made under this part for 3 years from the date of filing the application.

(2) The documents shall be available for inspection on request to the Howard County Ethics Commission, after reasonable notice.

Part IX. Special Provisions For Frederick County.

**5-857. Definitions.**

(a) *In general.* — In this part the following words have the meanings indicated.

(b) *Aggrieved party.* — “Aggrieved party” means:

(1) a property owner whose property:

(i) adjoins, fronts, or is located near the subject property; or

(ii) is located within sight or sound of the subject property; or

(2) an individual located within the same subdivision as the subject property or who lives up to three-quarters of a mile by road or otherwise one-half mile away from the subject property.

(c) *Applicant.* — (1) “Applicant” means a person that is:

(i) a title owner or contract purchaser of land that is the subject of an application;

(ii) a trustee who has an interest in land that is the subject of an application, excluding trustees described in a mortgage or deed of trust; or

(iii) a holder of at least a 10% interest in land that is the subject of an application.

(2) “Applicant” includes a person who is an officer or a director of a corporation that actually holds title to the land, or is a contract purchaser of the land, that is the subject of an application.

(3) “Applicant” does not include:

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

(ii) a municipal corporation or public corporation;

(iii) a public authority;

(iv) an electric company or electric supplier applying for a certificate of public convenience and necessity under § 7–207 or § 7–208 of the Public Utilities Article; or

(v) a person who is hired or retained as an accountant, an attorney, an architect, an engineer, a land use consultant, an economic consultant, a real estate agent, a real estate broker, a traffic consultant, or a traffic engineer.

(d) *Application.* — “Application” means:

(1) an application for a zoning map amendment as part of a piecemeal or floating zone rezoning proceeding;

(2) a formal application for a comprehensive map planning change or zoning change during the county comprehensive land use plan update;

(3) an application for a map amendment to the county water and sewerage plan;

(4) a request made under § 4–416 of the Local Government Article for the Board to approve the placement of annexed land in a zoning classification that allows a land use that is substantially different from the use for the land authorized in the zoning classification of the county applicable at the time of annexation; or

(5) an application to create a district or an easement or any other interest in real property as part of an agricultural land preservation program.

(e) “Business entity” means:

(1) a corporation;

(2) a limited liability company;

(3) a partnership; or

(4) a sole proprietorship.

(f) *Candidate.* — “Candidate” means a candidate for County Executive or County Council who becomes an elected official.

(g) *Contribution.* — “Contribution” means a payment or transfer of money or property worth at least \$100, calculated cumulatively during the pendency of the application, to a candidate or a treasurer or political committee of a candidate.

(h) *Governing body.* — “Governing body” means the governing body of Frederick County.

(i) *Partnership.* — “Partnership” includes:

- (1) a general partnership;
- (2) a joint venture;
- (3) a limited liability limited partnership;
- (4) a limited liability partnership; or
- (5) a limited partnership.

(j) *Party of record.* — “Party of record” means a person that participated in a proceeding on an application before the governing body by appearing at a public hearing or filing a statement in an official record.

(k) *Pendency of the application.* — “Pendency of the application” means the time between the acceptance by the County Department of Planning and Zoning of a filing of an application and the earlier of:

- (1) 2 years after the acceptance of the application; or
- (2) the expiration of 30 days after:
  - (i) the governing body has taken final action on the application; or
  - (ii) the application is withdrawn.

(l) *Political committee.* — “Political committee” means a committee specifically created to promote the candidacy of a member of the governing body who is running for an elective office.

(m) *Treasurer.* — “Treasurer” has the meaning stated in § 1–101 of the Election Law Article.

#### **5–858. Prohibited actions.**

(a) *Contributions.* — An applicant may not make a contribution to a member of the governing body during the pendency of the application.

(b) *Voting.* — Except as provided in subsection (c) of this section, after an application has been filed, a member of the governing body may not vote or participate in any way in the proceedings on the application if the member or the treasurer or political committee of the member received a contribution from the applicant during the pendency of the application.

(c) *Comprehensive zoning or rezoning proceedings.* — A member of the governing body may participate in a comprehensive zoning or rezoning proceeding.

#### **5–859. Ex parte communications.**

(a) *Application of section.* — This section does not apply to a communication between a member of the governing body and an employee of the Frederick County government whose duties involve giving aid or advice to a member of the governing body concerning a pending application.

(b) *Disclosure.* — A member of the governing body who communicates ex parte with an individual concerning a pending application during the pendency of the application shall file with the Chief Administrative Officer a separate disclosure for each communication within the later of 7 days after the communication was made or received.

#### **5–860. Affidavit.**

At any time before final action on an application, a party of record may file with the Chief Administrative Officer an affidavit including competent evidence of:

(1) a contribution by an applicant covered under § 5–858 of this subtitle; or

(2) an ex parte communication covered under § 5–859 of this subtitle.

#### **5–861. Enforcement.**

(a) *In general.* — In the enforcement of this part, the Chief Administrative Officer shall be subject to the direction and control of the Frederick County Ethics Commission and, unless otherwise specifically directed by the County Ethics Commission, may only:

- (1) receive filings;
- (2) maintain records;
- (3) report violations; and
- (4) perform other ministerial duties necessary to administer this part.

(b) *Filings; summary reports.* — (1) The affidavits and disclosures required under this part shall be filed in the appropriate case file of an application.

(2) The Chief Administrative Officer, at least twice each year, shall prepare a summary report compiling all affidavits and disclosures that have been filed in the application case files.

(3) All summary reports compiled under paragraph (2) of this subsection shall be available to members of the public on written request.

(4) All affidavits, disclosures, and accompanying documentation required under this part shall be in the form required by the Frederick County Ethics Commission.

#### **5-862. Violations; penalties.**

(a) *Procedural error.* — (1) The Frederick County Ethics Commission or another aggrieved party of record may assert as procedural error a violation of this part in an action for judicial review of the application.

(2) If the court finds that a violation of this part occurred, the court shall remand the case to the governing body for reconsideration.

(b) *Penalties.* — (1) A person that knowingly and willfully violates this part is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding \$1,000 or both.

(2) If the person is a business entity and not an individual, each member, officer, or partner of the business entity who knowingly authorized or participated in the violation is guilty of a misdemeanor and on conviction is subject to imprisonment not exceeding 6 months or a fine not exceeding \$1,000 or both.

(3) An action taken in reliance on an opinion of the State Ethics Commission or the Frederick County Ethics Commission may not be considered a knowing and willful violation.

(c) *Preservation of documents.* — (1) A person that is subject to this part shall preserve all books, papers, and other documents necessary to complete and substantiate any reports, statements, or records required to be made under this part for 3 years from the date of filing the application.

(2) The documents shall be available for inspection on request.

*Subtitle 9. Enforcement.*

**5–901. Petition by Ethics Commission.**

To compel compliance with an order, or to seek other relief authorized by this subtitle, the Ethics Commission may file a petition in a circuit court with venue over the proceeding.

**5–902. Judicial relief.**

(a) *In general.* — The court may compel compliance with the Ethics Commission's order by:

- (1) issuing an order to cease and desist from the violation; or
- (2) granting other injunctive relief.

(b) *Special relief.* — (1) The court may also:

- (i) impose a fine:
  1. not exceeding \$5,000 for a violation of this title;
  2. with each day that the violation occurs being a separate offense; and
  3. which shall be paid to the State Treasurer and deposited in the General Fund; or

(ii) except as provided in paragraph (2) of this subsection, void an official act of an official or employee if:

1. the official or employee had a conflict of interest that is prohibited by this title;
2. the act arose from or concerned the subject matter



of the conflict;

3. the proceeding was brought within 90 days after the act occurred; and

4. the court determines that the conflict had an impact on the act.

(2) The court may not void an official act that:

(i) appropriates public funds;

(ii) imposes a tax; or

(iii) provides for the issuance of a bond, a note, or any other evidence of public obligation.

(c) *Scope of relief.* — After hearing the case, the court may grant all or part of the relief sought.

### **5–903. Criminal Penalties.**

(a) *In general.* — Except as provided in § 5–716 of this title, a person that knowingly and willfully violates Subtitle 7 of this title is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$10,000 or imprisonment not exceeding 1 year or both.

(b) *Officers and partners.* — If the person is not an individual, each officer or partner who knowingly authorizes or participates in a violation of Subtitle 7 of this title is guilty of a misdemeanor and on conviction is subject to the penalty specified in subsection (a) of this section.

(c) *Distribution of fines.* — A fine assessed under this section shall be distributed to the Fair Campaign Financing Fund established under § 15–103 of the Election Law Article.

### **5–904. Disciplinary action.**

In addition to any other penalty under this title, a public official or employee found by the Ethics Commission or a court to have violated this title:

(1) may be removed or subjected to other disciplinary action; and

(2) if subject to an order of the Ethics Commission or a court

directing compliance, may not receive salary or other compensation until the individual complies fully with the order.

*Subtitle 10. Short Title.*

**5-1001. Short title.**

This title may be cited as the Maryland Public Ethics Law.