SUBTITLE 2. - HOWARD COUNTY PUBLIC ETHICS LAW [116]

(116) **Editor's note—** C.B. 50, 2011, § 1, adopted Nov. 11, 2011, repealed former Subt. 2, §§ 22.200—22.209, and enacted a new Subt. 2 as set out herein. Former Subt. 2 pertained to public ethics and originally derived from C.B. 14, 1982 and was amended by numerous ordinances. See the Code Comparative Table—Council Bills for complete derivation.

Sec. 22.200. - Short title.
Sec. 22.201. - Statement of purpose and policy.
Sec. 22.202. - Definitions.
Sec. 22.203. - Administration.
Sec. 22.204. - Prohibited conduct and interests.
Sec. 22.205. - Exceptions pursuant to the provisions of subsection 901(b) of the Howard County Charter.
Sec. 22.206. - Financial disclosure statements.
Sec. 22.207. - Lobbying.
Sec. 22.208. - Enforcement.
Sec. 22.209. - Severability.

Sec. 22.200. - Short title.

This subtitle may be cited as the Howard County Public Ethics Law.

(C.B. 50, 2011, § 1)

Sec. 22.201. - Statement of purpose and policy.

(a) Howard County, recognizing that our system of representative government is dependent in part upon the people maintaining the highest trust in their public officials and employees, finds and declares that the people have a right to be assured that the impartiality and independent judgment of public officials and employees will be maintained.

(b) It is evident that this confidence and trust is eroded when the conduct of the County's business is subject to improper influence and even the appearance of improper influence.

(c) For the purpose of guarding against improper influence, the County Council enacts this Public Ethics Law to require County elected officials, officials, employees, and individuals appointed to Boards and Commissions to disclose their financial affairs and to set minimum standards for the conduct of local government business.

(d) It is the intention of the Council that this subtitle, except its provisions for criminal sanctions, be liberally construed to accomplish this purpose.

(C.B. 50, 2011, § 1)

Sec. 22.202. - Definitions.

In this subtitle, the following terms have the meanings indicated:

(a) (1) *Business entity* means a corporation, general or limited partnership, limited liability company, limited liability partnership, sole proprietorship, joint venture, unincorporated association or firm, institution, trust, foundation, or other organization, whether or not operated for profit.

(2) Business entity does not include a governmental entity.

(b) *Commission* means the Howard County Ethics Commission established under section 22.203 of this subtitle.

(c) (1) *Compensation* means any money or thing of value, regardless of form, received or to be received by any individual covered by this subtitle from an employer for service rendered.

(2) For the purposes of section 22.207 of this subtitle, if lobbying is only a portion of a person's employment, "compensation" means a prorated amount based on the time devoted to lobbying compared to the time devoted to other employment duties.

(d) *County* means Howard County.

(e) *Doing business with* means:

(1) Having or negotiating a contract that involves the commitment, either in a single or combination of transactions, of $5,000.00 or more of County controlled funds; or

(2) Being regulated by or otherwise subject to the authority of the County; or

(3) Being registered as a lobbyist under section 22.207 of this subtitle.

(f) (1) *Elected official* means any individual who holds an elective office of the County.

(2) *Elected official* does not include the sheriff, state's attorney, register of wills, the clerk of the court, or a member of the Maryland General Assembly.

(g) (1) *Employee* means an individual who is employed by the County or the Howard County Library.

(2) *Employee* does not include an elected local official.

(3) *Employee* does not include an employee of:

(i) The offices of the sheriff, state's attorney, register of wills, or the clerk of the court;

(ii) The County health department; or

(iii) The County department of social services.

(h) *Financial interest* means:

(1) Ownership of any interest as the result of which the owner has received, within the past three years, or is presently receiving, or in the future is entitled to receive, more than $1,000.00 per year; or

(2) Ownership, or the ownership of securities of any kind representing or convertible into ownership, of more than 3 percent of a business entity by a County official or employee, or the

spouse of an official or employee.

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

(2) *Gift* does not include a political campaign contribution regulated under the Elections Article of the Annotated Code of Maryland or any other provision of State or local law regulating the conduct of elections or the receipt of political campaign contributions.

(j) *Immediate family* means a spouse and dependent children.

(k) (1) *Interest* means a legal or equitable economic interest, whether or not subject to an encumbrance or a condition, that is owned or held, in whole or in part, jointly or severally, directly or indirectly.

(2) For purposes of section 22.204 of this subtitle, "interest" includes any interest held at any time during the reporting period.

(3) *Interest* does not include:

(i) An interest held in the capacity of a personal agent, custodian, fiduciary, or personal representative, 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 either in a lump sum or periodically for life or a specified period;

(iv) A common trust fund or a trust which forms part of a pension or profit sharing plan which has more than 25 participants and which has been determined by the internal revenue service to be a qualified trust under the Internal Revenue Code; or

(v) A college savings plan under the Internal Revenue Code.

(l) *Lobbyist* means a person required to register and report expenses related to lobbying under section 22.207 of this subtitle.

(m) *Lobbying* means:

(1) Communicating in the presence of a County official or employee with the intent to influence any official action of that official or employee; or

(2) Engaging in activities with the express purpose of soliciting others to communicate with a County official or employee with the intent to influence that official or employee.

(n) *Official* means an elected official, an employee of the County, or a person appointed to or employed by the County or any County agency, board, commission, or similar entity:

(1) Whether or not paid in whole or in part with County funds; and

(2) Whether or not compensated.

(o) *Person* includes an individual or business entity.

(p) *Qualified relative* means a spouse, parent, child, brother or sister.

(C.B. 50, 2011, § 1)

Sec. 22.203. - Administration.

(a) There is a Howard County Ethics Commission that consists of five members, appointed by the County Executive with the concurrence of the County Council.

(b) In addition to the qualifications set forth for board and commission members generally in title 6, subtitle 3 of this Code, members of the Ethics Commission shall not:

(1) Serve more than two consecutive terms;

(2) Hold or be a candidate for any elected or appointed Office of the United States, the State, any political subdivision or incorporated municipality of the State, or of any political party;

(3) Be an employee of the County or of any political party; and

(4) Be otherwise required to file a lobbying registration pursuant this subtitle.

(c) (1) The Commission shall elect a chairman from among its members.

(2) The term of the chairman is one year.

(3) The chairman may be reelected.

(d) A majority vote of the Commission shall consist of three or more votes. A quorum consists of three members present.

(e) (1) The County Solicitor shall assist the commission in carrying out the Commission's duties;

(2) If a conflict of interest under section 22.204 of this subtitle or other conflict prohibits the County Solicitor from assisting the Commission in a matter, the County shall provide sufficient funds for the Commission to hire independent counsel for the duration of the conflict.

(f) The County Solicitor shall designate an Executive Secretary who shall attend all meetings.

(g) The Commission is the advisory body responsible for interpreting this subtitle and advising persons subject to this subtitle regarding its application.

(h) The Commission shall hear and decide, with the advice of the County Solicitor or other legal counsel if appropriate, all complaints filed regarding alleged violations of this subtitle by any person.

(i) The Commission, or an office designated by the Commission, shall retain as a public record all forms submitted by any person under this subtitle for at least four years after receipt by the Commission. The Commission shall keep on file the minutes of its proceedings in accordance with State of Maryland's Open Meetings Act.

(j) The Commission shall conduct a public information and education program regarding the purpose and implementation of this subtitle.

(k) The Commission shall certify to the state ethics commission on or before October 1 of each year that the County is in compliance with the requirements of the State Government Article, title 15, subtitle 8, of the Annotated Code of Maryland for Elected Local Officials.

(l) The Commission shall:

(1) Determine if changes to this subtitle are required to be in compliance with the requirements of the State Government Article, title 15, subtitle 8, of the Annotated Code of Maryland; and

(2) Forward any recommended changes and amendments to the County Council for enactment.

(m) (1) Any person subject to this subtitle may request an advisory opinion from the Commission concerning the application of this subtitle.

(2) The Commission shall respond promptly to a request for an advisory opinion and shall provide interpretations of this subtitle based on the facts provided or reasonably available to the Commission within 60 days of the request.

(3) In accordance with all applicable State and County laws regarding public records, the Commission shall publish or otherwise make available to the public copies of the advisory opinions, with the identities of the subjects deleted.

(4) The Commission may adopt additional policies and procedures related to the advisory opinion request process.

(n) (1) Any person may file a complaint with the Commission alleging a violation of any of the provisions of this subtitle.

(2) A complaint shall be in writing and under oath; and

(3) The Commission may refer a complaint to the County Solicitor, or other legal counsel if appropriate, for investigation and review.

(4) The Commission may reject without further proceedings any complaint which it deems to be plainly frivolous or which, assuming the facts alleged were true, does not state a violation of this subtitle.

(5) The Commission may dismiss a complaint if, after receiving an investigative report, the Commission determines that there are insufficient facts upon which to base a determination of a violation.

(6) If there is a reasonable basis for believing a violation has occurred, the subject of the complaint shall be given an opportunity for a hearing conducted in accordance with the applicable County Rules of Procedure.

(7) A final determination of a violation resulting from the hearing shall include findings of fact and conclusions of law.

(8) Upon finding a violation, the Commission may take any enforcement action provided for in section 22.208 of this subtitle.

(9) (i) After a complaint is filed and until a final finding of a violation by the Commission, all

actions regarding a complaint are confidential.

(ii) A finding of a violation is public information.

(10) The Commission may adopt additional policies and procedures related to complaints, complaint hearings, the use of independent investigators and staff, the use of witness and document subpoenas, and cure and settlement agreements.

(o) The Commission may grant exemptions to or modifications of the conflict of interest and financial disclosure provisions of this subtitle to officials or employees serving as members of County boards and commissions, when the Commission finds that the exemption or modification would not be contrary to the purposes of this subtitle, and the application of this subtitle would:

(1) Constitute an unreasonable invasion of privacy; and

(2) Significantly reduce the availability of qualified persons for public service.

(p) The Commission may:

(1) Assess a late fee of $2.00 per day up to a maximum of $250.00 for a failure to timely file a financial disclosure statement required under section 22.206 of this subtitle; and

(2) Assess a late fee of $10.00 per day up to a maximum of $250.00 for a failure to file a timely lobbyist registration or lobbyist report required under section 22.207 of this subtitle.

(q) (1) The Executive Secretary, on behalf of the Commission, may issue subpoenas:

(i) For the attendance of witnesses to testify; or

(ii) To produce evidence relevant and necessary to the administration and enforcement of this subtitle.

(2) A subpoena shall be served by delivering a copy either to the person named or to an agent authorized by appointment or by law to receive service for the person named.

(C.B. 50, 2011, § 1)

Sec. 22.204. - Prohibited conduct and interests.

(a) *Participation Prohibitions.*

(1) Except as permitted by Commission regulation or opinion, an official or employee may not participate in:

(i) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision of the matter, any matter in which, to the knowledge of the official or employee, the official or employee or a qualified relative of the official or employee has an interest.

(ii) Except in the exercise of an administrative or ministerial duty that does not affect the disposition or decision with respect to the matter, any matter in which any of the following is a party:

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

b. A business entity for which the official, employee, or a qualified relative of the official or employee is an officer, director, trustee, partner, or employee;

c. A business entity with which the official or employee or, to the knowledge of the official or employee, a qualified relative is negotiating or has any arrangement concerning prospective employment;

d. If the contract reasonably could be expected to result in a conflict between the private interests of the official or employee and the official duties of the official or employee, a business entity that is a party to an existing contract with the official or employee, or which, to the knowledge of the official or employee, is a party to a contract with a qualified relative;

e. An entity, doing business with the County, in which a direct financial interest is owned by another entity in which the official or employee has a direct financial interest, if the official or employee may be reasonably expected to know of both direct financial interests; or

f. A business entity that:

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

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

(2) A person who is disqualified from participating under paragraph 1. of this subsection shall disclose the nature and circumstances of the conflict and may participate or act if:

(i) The disqualification leaves a body with less than a quorum capable of acting;

(ii) The disqualified official or employee is required by law to act; or

(iii) The disqualified official or employee is the only person authorized to act.

(3) The prohibitions of paragraph 1. of this subsection do not apply if participation is allowed by regulation or opinion of the Commission.

(b) *Employment and Financial Interest Restrictions.*

(1) Except as permitted by regulation of the commission when the interest is disclosed or when the employment does not create a conflict of interest or appearance of conflict, an official or employee may not:

(i) Be employed by or have a financial interest in any entity:

a. Subject to the authority of the official or employee or the County agency, board, commission with which the official or employee is affiliated; or

b. That is negotiating or has entered a contract with the agency, board, or commission with which the official or employee is affiliated; or

(ii) Hold any other employment relationship that would impair the impartiality or independence of judgment of the official or employee.

(2) The prohibitions of paragraph (1) of this subsection do not apply to:

(i) An official or employee who is appointed to a regulatory or licensing authority pursuant to a statutory requirement that persons subject to the jurisdiction of the authority be represented in appointments to the authority;

(ii) Subject to other provisions of law, a member of a board or commission in regard to a financial interest or employment held at the time of appointment, provided the financial interest or employment is publicly disclosed to the appointing authority and the Commission;

(iii) An official or employee whose 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, as permitted and in accordance with regulations adopted by the Commission; or

(iv) Employment or financial interests allowed by regulation of the Commission if the employment does not create a conflict of interest or the appearance of a conflict of interest or the financial interest is disclosed.

(c) *Post-Employment Limitations and Restrictions.*

(1) A former official or employee may not assist or represent any party other than the County for compensation in a case, contract, or other specific matter involving the County if that matter is one in which the former official or employee significantly participated as an official or employee.

(2) For a year after the former member leaves office, a former member of the County Council may not assist or represent another party for compensation in a matter that is the subject of legislative action.

(d) *Contingent Compensation.* Except in a judicial or quasi-judicial proceeding, an official or employee may not assist or represent a party for contingent compensation in any matter before or involving the County.

(e) *Use of Prestige of Office.*

(1) An official or employee may not intentionally use the prestige of office or public position for the private gain of that official or employee or the private gain of another.

(2) This subsection does not prohibit the performance of usual and customary constituent services by an elected official without additional compensation.

(f) *Solicitation and Acceptance of Gifts.*

(1) An official or employee may not solicit any gift.

(2) An official or employee may not directly solicit or facilitate the solicitation of a gift, on behalf of another person, from an individual regulated lobbyist.

(3) An official or employee may not knowingly accept a gift, directly or indirectly, from a person that the official or employee knows or has the reason to know:

(i) Is doing business with or seeking to do business with the County office, agency, board or commission with which the official or employee is affiliated;

(ii) Has financial interests that may be substantially and materially affected, in a manner distinguishable from the public generally, by the performance or nonperformance of the official duties of the official or employee;

(iii) Is engaged in an activity regulated or controlled by the official's or employee's governmental unit; or

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

(4) (i) Subsection (4)(ii) does not apply to a gift:

a. That would tend to impair the impartiality and the independence of judgment of the official or employee receiving the gift;

b. Of significant value that would give the appearance of impairing the impartiality and independence of judgment of the official or employee; or

c. Of significant value that the recipient official or employee believes or has reason to believe is designed to impair the impartiality and independence of judgment of the official or employee.

(ii) Notwithstanding paragraph (3) of this subsection, an official or employee may accept the following:

a. Meals and beverages consumed in the presence of the donor or sponsoring entity;

b. Ceremonial gifts or awards that have insignificant monetary value;

c. Unsolicited gifts of nominal value that do not exceed $20.00 in cost or trivial items of informational value;

d. Reasonable expenses for food, travel, lodging, and scheduled entertainment of the official or the employee at a meeting which is given in return for the participation of the official or employee in a panel or speaking engagement at the meeting;

e. Gifts of tickets or free admission extended to an elected official to attend a charitable, cultural, or political event, if the purpose of this gift or admission is a courtesy or ceremony extended to the elected official's office;

f. A specific gift or class of gifts that the Commission exempts from the operation of this subsection upon a finding, in writing, that acceptance of the gift or class of gifts would not be detrimental to the impartial conduct of the business of the County and that the gift is purely personal and private in nature;

g. Gifts from a person related to the official or employee by blood or marriage, or any other individual who is a member of the household of the official or employee; or

h. Honoraria for speaking to or participating in a meeting, provided that the offering of the honorarium is not related, in any way, to the official's or employee's official position.

(g) *Disclosure of Confidential Information.* Other than in the discharge of official duties, an official or employee may not disclose or use confidential information, that the official or employee acquired by reason of the official's or employee's public position and that is not available to the public, for the economic benefit of the official or employee or that of another person.

(h) *Participation in Procurement.*

(1) An individual or a person that employs an individual who assists a County, agency or unit in the drafting of specifications, an invitation for bids, or a request for proposals for a procurement, may not submit a bid or proposal for that procurement, or assist or represent another person, directly or indirectly, who is submitting a bid or proposal for the procurement.

(2) The Commission may establish exemptions from the requirements of this section for providing descriptive literature, sole source procurements, and written comments solicited by the procuring agency.

(C.B. 50, 2011, § 1)

Sec. 22.205. - Exceptions pursuant to the provisions of subsection 901(b) of the Howard County Charter.

(a) *Applicability.* This section applies to all County employees or officials, except:

(1) Members of the Commission;

(2) The Executive Secretary to the Commission;

(3) The County Solicitor; and

(4) Assistants to the County Solicitor whose assigned duties include representing and providing staff services to the Commission.

(b) *Procedure:*

(1) *Authorization.* The Commission may authorize County employees or officials to have an interest in or be employed by an entity which has dealings with the County provided that, after a public hearing and full disclosure, the Commission, applying the criteria listed in subsection (c), "criteria," of this section, determines that the interest or employment does not violate the public interest.

(2) *Request.* The employee or official who wishes such an authorization shall make a signed request in writing to the Commission. The request shall explain in detail:

(i) The nature of the entity in which the interest or employment is held and its dealings with the County;

(ii) The nature and scope of the employee's or official's interest or employment with the entity;

(iii) The nature and scope of the employee's or official's duties with the County;

(iv) Any additional information which is relevant to determining whether the public interest would be violated by the interest or the employment.

(3) *Hearing.* The Commission shall schedule a public hearing on the request to take place within 45 calendar days after the Commission's receipt of the request. The hearing shall be advertised at least once in a newspaper of general circulation in the County. At the public hearing the Commission may hear testimony from the official or employee making the request, from other individuals with knowledge of the employee's or official's role in the County or in the outside entity, and from members of the public.

(c) *Criteria.* The Commission shall consider the following criteria in determining whether to conclude that the outside employment or interest does not violate the public interest and therefore to authorize the interest or employment.

(1) The employee's or official's duties with the County do not significantly impact on the entity in which a financial interest is held or on the outside employer or on the contract or proposed contract between the County and the entity or outside employer.

(2) The employee or official is not directly supervised by a person who has duties that significantly impact on the entity or on the outside employer or on the contract or proposed contract.

(3) The employee or official does not supervise a person who has duties that significantly impact on the entity or on the outside employer or on the contract or proposed contract.

(4) The employee or official is not affiliated with the department, office or agency within the County that exercises authority over the entity or over the outside employer or is involved in contracts with the outside employer or entity.

(5) The employee or official has complied with other relevant sections of the Howard County Public Ethics Law relating to the matters involved.

(6) The employee's or official's financial interest in an outside entity or outside employment involves no substantive nonministerial duties which significantly relate to the County's authority over the outside employer or entity.

(7) The employee's or official's private compensation is not funded to any significant extent by the County contract(s).

(8) The employee's or official's specific employment circumstances do not otherwise raise a conflict of interest or appearance of conflict as contemplated by subsection 901(b) of the Howard County Charter and sections 22.201 and 22.204 of this subtitle.

(d) *Decision.* Within 45 calendar days after the public hearing the Commission shall issue a written decision stating whether the requested outside employment or interest is authorized and giving the reasons for the decision.

(C.B. 50, 2011, § 1)

Sec. 22.206. - Financial disclosure statements.

(a) This section applies to all elected officials, all candidates to be elected officials, all employees holding positions listed in subsection (b) of this section, all persons appointed to the boards and

commissions listed in subsection (c) of this section, and certain high school members of boards and commissions.

(b) This section applies to the following County employees:

(1) All executive exempt positions as listed in section 1.306 "Executive Exempt" of the Howard County Code;

(2) All employees authorized to draft specifications for, negotiate or execute a contract which commits the County or any of its boards, agencies or departments to expend in excess of $2,500.00; and

(3) All employees in a managerial or policy-making positions as determined by the commission upon recommendation of their department or agency head. In making such a recommendation, the department or agency head shall consider such factors as the employee's responsibility for decision making and policy recommendation in the areas of contracting, procurement, administration and/or monitoring of grants and subsidies, planning or zoning, inspecting, licensing, regulating, auditing and budgeting; and

(c) This section applies to members of the following boards and commissions:

(1) Board of Appeals;

(2) Planning Board;

(3) Recreation and Parks Board;

(4) Public Works Board;

(5) Ethics Commission;

(6) Housing and Community Development Board;

(7) Agricultural Land Preservation Advisory Board;

(8) Equal Business Opportunity Commission;

(9) Historic District Commission;

(10) Board of Library Trustees;

(11) Howard County Housing Commission;

(12) Economic Development Authority Board;

(13) Howard County Pension Oversight Commission;

(14) Howard County Mental Health Authority Board;

(15) Howard County Alcoholic Beverage Hearing Board;

(16) Howard County Revenue Authority Board;

(17) Design Advisory Panel;

(18) Animal Matters Hearing Board;

(19) Advisory Board on Consumer Affairs;

(20) Board of Electrical Examiners;

(21) Board of Health; and

(22) Human Rights Commission.

(d) This section shall apply to high school members of boards and commissions as follows:

(1) A high school student member of a board or commission listed in subsection (c) of this section shall file a statement of financial interest on a form that the Commission provides.

(2) The high school student member statement shall only include the following information regarding interests that may create a conflict between the student member's personal interests and the individual's duties as a board or commission member:

(i) A schedule of sources of earned income of the high school student member and of the member's parent(s) or legal guardian(s) that exceed $100.00, including the name and address of each place of salaried employment and of each business entity solely or partially owned and from where income was earned. Where the source of income is an attorney-client or a physician/psychiatrist/psychologist-patient relationship, the names of individual clients or patients need not be disclosed;

(ii) A schedule of each gift in excess of $20.00 in value (or an aggregate of $100.00 from any one person) directly or indirectly from a person(s) who does business with Howard County. This schedule as to each such gift, shall include:

a. The nature and value of the gift; and

b. The identity of the person from whom, directly or indirectly, the gift was received;

c. For purposes of this subsection, gift does not include:

i. Ceremonial gifts or awards of insignificant monetary value; or

ii. Unsolicited gifts of nominal value or trivial items of informational value; and

(iii) A list of family members employed by the County in accordance with subsection (j)(7) of this section; and

(e) Except as provided in subsection (g) of this section, an elected official, employee, appointee to a board or commission, or candidate to be an elected official shall file the financial disclosure statement required under this subsection:

(1) On a form provided by the Commission;

(2) Under oath or affirmation;

(3) With the Commission; and

(4) The Commission may require that a financial disclosure statement be submitted through an electronic process for which the oath or affirmation shall be made by an electronic signature that:

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

(ii) Is made expressly under the penalties of perjury; and

(iii) Subjects the individual making the signature to the penalties of perjury to the same extent as an oath or affirmation before an individual authorized to administer oaths.

(f) *Deadlines for Filing Statements.*

(1) An incumbent official or employee shall file a financial disclosure statement annually no later than April 30th of each year for the preceding calendar year.

(2) An official or employee who is appointed to fill a vacancy in an office for which a financial disclosure statement is required and who has not already filed a financial disclosure statement shall file a statement for the preceding calendar year within 30 days after appointment.

(3) (i) An individual who, other than by reasons of death, leaves an office for which a statement is required shall file a statement upon resignation or termination of office.

(ii) The statement shall cover:

a. 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

b. The portion of the current calendar year during which the individual held the office.

(g) *Candidates to be Elected Officials.*

(1) Except an official or employee who has filed a financial disclosure statement under another provision of this section for the reporting period, a candidate to be an elected official shall file a financial disclosure statement each year beginning with the year in which the certificate of candidacy is filed through the year of the election.

(2) A candidate to be an elected official shall file a statement required under this section:

(i) In the year the certificate of candidacy is filed, no later that the filing of the certificate of candidacy;

(ii) In the year of the election, on or before the earlier of April 30 or the last day for the withdrawal of candidacy; and

(iii) In all other years for which a statement is required, on or before April 30.

(3) A candidate to be an elected official:

(i) May file the statement required under subsection (g)(2)(i) of this section with the County Board of Election Supervisors with the certificate of candidacy or with the Commission prior to filing the certificate of candidacy; and

(ii) Shall file the statements required under subsections (g)(2)(ii) and (iii) of this section with

the Commission.

(4) If a candidate fails to file a statement required by this section after written notice is provided by the County Board of Election Supervisors at least 20 days before the last day for the withdrawal of candidacy, the candidate is deemed to have withdrawn the candidacy.

(5) The County Board of Election Supervisors may not accept any certificate of candidacy unless a statement required under this section has been filed in proper form.

(6) Within 30 days of the receipt of a statement required under this section, the County Board of Election Supervisors shall forward the statement to the Commission, or an office designated by the Commission.

(h) *Public Record.*

(1) The Commission, or an office designated by the Commission, shall maintain all financial disclosure statements filed under this section.

(2) The Commission, or an office designated by the Commission, shall make financial disclosure statements available during normal office hours, for examination and copying by the public subject to reasonable fees and administrative procedures established by the County.

(3) If an individual examines or copies a financial disclosure statement, the Commission or the office designated by the Commission shall record:

(i) The name and home address of the individual reviewing or copying the statement; and

(ii) The name of the person whose financial disclosure statement was examined or copied.

(4) Upon request by the individual whose financial disclosure statement was examined or copied, the Commission, or the office designated by the Commission, shall provide the official or employee with a copy of the name and home address of the person who reviewed the official's or employee's financial disclosure statement.

(5) A financial disclosure statement required by this subtitle shall not be used in any way for, or be made available for commercial purposes.

(i) *Retention Requirements.* The Commission, or the office designated by the Commission, shall retain financial disclosure statements for four years from the date of receipt.

(j) *Contents of Statement.* Employees and elected officials shall disclose all the information required by this subsection. Members of boards and commissions listed in subsection (c) of this section shall disclose the information required by this subsection only with respect to those interests, gifts, compensated positions, and liabilities that may create a conflict, as prohibited by section 22.204 of this subtitle, between the member's personal interests and the member's official local duties as a board or Commission member.

(1) Interests in real property.

(i) A statement filed under this section shall include a schedule of all interests in real property wherever located.

(ii) For each interest in real property, the schedule shall include:

a. The nature of the property and the location by street address, mailing address, or legal description of the property;

b. The nature and extent of the interest held, including any conditions and encumbrances on the interest;

c. The date when, the manner in which, and the identity of the person from whom the interest was acquired;

d. The nature and amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired;

e. If any interest was transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest, and the identity of the person to whom the interest was transferred; and

f. The identity of any other person with an interest in the property.

(2) Interests in corporations and partnerships.

(i) A statement filed under this section shall include a schedule of all interests in any corporation, partnership, limited liability partnership, or limited liability corporation, regardless of whether the corporation or partnership does business with the County.

(ii) For each interest reported under this paragraph, the schedule shall include:

a. The name and address of the principal office of the corporation, partnership, limited liability partnership, or limited liability corporation;

b. The nature and amount of the interest held, including any conditions and encumbrances on the interest;

c. With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received for the interest and, if known, the identity of the person to whom the interest was transferred;

d. With respect to any interest acquired during the reporting period:

1. The date when, the manner in which, and the identity of the person from whom the interest was acquired; and

2. The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

(iii) An individual may satisfy the requirement to report the amount of the interest held under item (ii)(b) of this paragraph by reporting, instead of a dollar amount:

a. For an equity interest in a corporation, the number of shares held and, unless the

corporation's stock is publicly traded, the percentage of equity interest held; or

b. For an equity interest in a partnership, the percentage of equity interest held.

(3) Interests in business entities doing business with the County.

(i) A statement filed under this section shall include a schedule of all interests in any business entity that does business with the County, other than interests reported under paragraph (2) of this subsection.

(ii) For each interest reported under this paragraph, the schedule shall include:

a. The name and address of the principal office of the business entity;

b. The nature and amount of the interest held, including any conditions to and encumbrances on the interest;

c. With respect to any interest transferred, in whole or in part, at any time during the reporting period, a description of the interest transferred, the nature and amount of the consideration received in exchange for the interest and, if known, the identity of the person to whom the interest was transferred; and

d. With respect to any interest acquired during the reporting period:

1. The date when, the manner in which, and the identity of the person from whom the interest was acquired; and

2. The nature and the amount of the consideration given in exchange for the interest or, if acquired other than by purchase, the fair market value of the interest at the time acquired.

(4) Gifts.

(i) A statement filed under this section shall include a schedule of each gift in excess of $20.00 in value or a series of gifts totaling $100.00 or more received during the reporting period from or on behalf of, directly or indirectly, any one person who does business with the County.

(ii) For each gift reported, the schedule shall include:

a. A description of the nature and value of the gift; and

b. The identity of the person from whom, or on behalf of whom, directly or indirectly, the gift was received.

(5) Employment with or interests in entities doing business with the County.

(i) A statement filed under this section shall include a schedule of all offices, directorships, and salaried employment by the individual or member of the immediate family of the individual held at any time during the reporting period with entities doing business with the County.

(ii) For each position reported under this paragraph, the schedule shall include:

a. The name and address of the principal office of the business entity;

b. The title and nature of the office, directorship, or salaried employment held and the date it commenced; and

c. The name of each County agency with which the entity is involved as indicated by identifying one or more of the three categories of "doing business", as defined in section 22.202 of this subtitle.

(6) Indebtedness to entities doing business with the County.

(i) A statement filed under this section shall include a schedule of all liabilities, excluding retail credit accounts, to persons doing business with the County owed at any time during the reporting period:

a. By the individual; or

b. By a member of the immediate family of the individual if the individual was involved in the transaction giving rise to the liability.

(ii) For each liability reported under this paragraph, the schedule shall include:

a. The identity of the person to whom the liability was owed and the date the liability was incurred;

b. The amount of the liability owed as of the end of the reporting period;

c. The terms of payment of the liability and the extent to which the principal amount of the liability was increased or reduced during the year; and

d. The security given, if any, for the liability.

(7) Employment with the County. A statement filed under this section shall include a schedule of the immediate family members of the individual employed by the County in any capacity at any time during the reporting period.

(8) Sources of earned income.

(i) A statement filed under this section shall include a schedule of the name and address of each place of employment and of each 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 member of the individual's immediate family received earned income, at any time during the reporting period.

(ii) Notwithstanding item (i) of this paragraph, the schedule need not disclose:

a. A minor child's employment or business ownership, if the agency that employs the individual does not regulate, exercise authority over, or contract with the place of employment or business entity of the minor child; or

b. The names of individual clients or patients, where the source of income is an attorney-client or a physician/psychiatrist/psychologist-patient relationship.

(9) Additional information. A statement filed under this section may also include a schedule of additional interests or information that the individual making the statement wishes to disclose.

(k) For the purposes of subsections (j)(1), (2) and (3) of this section, the following interests are considered to be the interests of the individual making the statement:

(1) An interest held by a member of the individual's immediate family, if the interest was, at any time during the reporting period, directly or indirectly controlled by the individual.

(2) An interest held by a business entity in which the individual held a 30 percent or greater interest at any time during the reporting period.

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

(i) The individual held a reversionary interest or was a beneficiary, or

(ii) If a revocable trust, the individual was a settlor.

(l) (1) The Commission shall review the financial disclosure statements submitted under this section for compliance with the provisions of this section and shall notify an individual submitting the statement of any omissions or deficiencies.

(2) If, after notification by the Commission of any omission or deficiency, an individual does not cure such within 30 days, the Commission shall refer evidence of any noncompliance with this section to the County Solicitor for appropriate action.

(3) The Commission may take appropriate enforcement action to ensure compliance with this section.

(m) *Incomplete Information.* When the individual required to file is unable to obtain the information needed to complete the schedules required by this section, the individual shall report the unavailability of certain information and shall provide a written statement of the efforts made to obtain the information. The Commission shall conduct an investigation to determine if the individual has used due diligence in attempting to obtain the missing information and whether, considering the circumstances, the omission of the material is justified. In making this determination, the Commission shall request and consider the opinion of the County Solicitor. The Solicitor's opinion and the report of the Commission shall be made part of the statement of the person required to file.

(C.B. 50, 2011, § 1)

Sec. 22.207. - Lobbying.

(a) Except as provided in subsections (b) and (c) of this section, a person or entity who engages in lobbying as defined in section 22.202 of this subtitle shall file a lobbying registration with the Commission if the person or entity, during the calendar year:

(1) Expends, exclusive of personal travel and subsistence expenses, in excess of $100.00 in furtherance of this activity; or

(2) Is compensated in excess of $500.00 in connection with this activity.

(b) The following activities are exempt from regulation under this section:

(1) Professional services in drafting bills or in advising and rendering opinions to clients as to the construction and effect of proposed or pending County Council actions when these services do not

otherwise constitute lobbying activities;

(2) Appearances before the County Council upon its specific invitation or request if the person or entity engages in no further or other activities in connection with the passage or defeat of County Council actions;

(3) Appearances before a County agency upon the specific invitation or request of the agency if the person or entity engages in no further or other activities in connection with the passage or defeat of any agency executive action;

(4) Appearance as part of the official duties of a duly elected or appointed official or employee of the state or a political subdivision of the state, or of the united states, and not on behalf of any other entity;

(5) Actions of a publisher or working member of the press, radio, or television in the ordinary course of the business of disseminating news or making editorial comment to the general public who does not engage in further or other lobbying that would directly and specifically benefit the economic, business, or professional interests of the person or entity or the employer of the person or entity;

(6) Appearances by an individual before the county council at the specific invitation or request of a registered lobbyist if the person performs no other lobbying act and notifies the County Council that the person or entity is testifying at the request of the lobbyist;

(7) Appearances by an individual before a government agency at the specific invitation or request of a registered lobbyist if the person or entity performs no other lobbying act and notifies agency that the person or entity is testifying at the request of the lobbyist;

(8) The representation of a bona fide religious organization solely for the purpose of protecting the right of its own members to practice the doctrine of the organization; and

(9) Appearance as part of the official duties of an officer, director, member, or employee of an association engaged exclusively in lobbying for counties and municipalities and not on behalf of any other entity.

(c) *Limited Exemption—Employer of a Lobbyist.*

(1) A person or entity who compensates one or more lobbyists and who would otherwise be required to register as a lobbyist is not required to file a registration and submit lobbying reports if the person or entity reasonably believes that all expenses incurred in connection with the lobbying activities will be reported by a properly registered person or entity acting on behalf of the person or entity.

(2) A person or entity exempted under this subsection becomes subject to this section immediately upon failure of the lobbyist to report any information required under this section.

(d) (1) The registration filed under this section shall be filed on or before the latter of the beginning of the calendar year in which the person or entity expects to lobby and within five days of first engaging in lobbying activities in the calendar year.

(2) The registration filed under this section:

(i) Shall be dated and on a form developed by the Commission;

(ii) Shall include:

a. The lobbyist's full and legal name and permanent address;

b. The name, address, and nature of business of any person or entity on whose behalf the lobbyist acts;

c. The written authorization of any person or entity on whose behalf the lobbyist acts or an authorized officer or agent, who is not the lobbyist, of the person or entity on whose behalf the lobbyist acts;

(iii) A statement of whether the person or entity on whose behalf the lobbyist acts is exempt from registration under subsection (c) of this section;

(iv) The identification, by formal designation, if known, of matters on which the lobbyist expects to act;

(v) Identification of the period of time within a single calendar year during which the lobbyist is authorized to engage in these activities, unless terminated sooner; and

(vi) The full legal signature of the lobbyist and, when appropriate, the person or entity on whose behalf the lobbyist acts or an agent or authorized officer of the person or entity on whose behalf the lobbyist acts.

(e) A lobbyist shall file a separate registration for each person or entity that has engaged or employed the lobbyist for lobbying purposes.

(f) A lobbyist may terminate the lobbyist's registration by providing written notice to the Commission and submitting all outstanding reports and registrations.

(g) A person or entity may not engage in lobbying activities on behalf of another person or entity for compensation that is contingent upon the passage or defeat of any action by the County Council or the outcome of any executive action.

(h) *Activity Report.*

(1) A lobbyist shall file with the Commission or the office designated by the Commission:

(i) By July 31, one report concerning the lobbyist's lobbying activities covering the period beginning January 1 through June 30; and

(ii) By January 31, one report covering the period beginning July 1 through December 31.

(2) A lobbyist shall file a separate activity report for each person or entity on whose behalf the lobbyist acts.

(3) If the lobbyist is not an individual, an authorized officer or agent of the entity shall sign the form.

(4) The report shall include:

(i) A complete and current statement of the information required to be supplied with the

lobbyist's registration form.

(ii) Total expenditures on lobbying activities in each of the following categories:

a. Total compensation paid to the lobbyist not including expenses reported under items (b)—(i) of this subparagraph;

b. Office expenses of the lobbyist;

c. Professional and technical research and assistance not reported in item (i) of this subparagraph;

d. Publications which expressly encourage persons to communicate with County officials or employees;

e. Names of witnesses, and the fees and expenses paid to each witness;

f. Meals and beverages for County officials and employees;

g. Reasonable expenses for food, lodging, and scheduled entertainment of County officials or employees for a meeting which is given in return for participation in a panel or speaking engagement at the meeting;

h. Other gifts to or for County officials or employees or their spouses or dependent children; and

i. Other expenses.

(5) For reporting purposes, a prorated amount shall be labeled as such.

(i) *Special Gift Report.*

(1) (i) With the six-month activity report required under subsection (h) of this section, a lobbyist shall report, except for gifts reported in item (h)(4)(ii)g. of this section, gifts from the lobbyist with a cumulative value of $75.00 or more during the reporting period to an official, employee, or member of the immediate family of an official or employee.

(ii) The lobbyist shall report gifts under this paragraph regardless of whether the gift was given in connection with lobbying activities.

(2) The report shall include the date, beneficiary, amount or value, and nature of the gift.

(j) *Notification to Official and Confidentiality.*

(1) If any report filed under this section contains the name of an official or employee or a member of the immediate family of an official or employee, the Commission shall notify the official or employee within 30 days.

(2) The Commission shall keep the report confidential for 60 days following receipt by the Commission.

(3) Within 30 days of the notice required under paragraph (1) of this subsection, the official or employee may file a written exception to the inclusion in the report of the name of the official,

employee, or member of the immediate family of the official or employee.

(k) The Commission may require a lobbyist to submit other reports the Commission determines to be necessary.

(l) The Commission, or an office designated by the Commission, shall maintain all registrations and reports filed under this section.

(m) (1) The Commission shall review the registrations and reports filed under this section for compliance with this section and shall notify persons engaging in lobbying activities of any omissions or deficiencies.

(2) The Commission may take appropriate enforcement action to ensure compliance with this section.

(n) *Annual Report.*

(1) The Commission shall compute and make available a subtotal under each of the ten required categories in subparagraph (h)(4)(ii) of this section.

(2) The Commission shall compute and make available the total amount reported by all lobbyists for their lobbying activities during the reporting period.

(o) The Commission shall make lobbying registrations and reports available during normal business hours for examination and copying subject to reasonable fees and procedures established by the Commission.

(C.B. 50, 2011, § 1)

Sec. 22.208. - Enforcement.

(a) (1) Upon a finding of a violation of any provision of this subtitle, the Commission may:

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

(ii) Issue a reprimand; or

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

(2) If the Commission finds that a respondent has violated lobbying provisions set forth in section 22.206 and section 22.207 of this subtitle, the Commission may:

(i) Require a respondent who is a registered lobbyist to file any additional reports or information that reasonably related to the information that is required under section 22.207 of this subtitle;

(ii) Impose a fine not exceeding $1,000.00 for each violation; and

(iii) Suspend the registration of an individual registered lobbyist if the Commission finds that the lobbyist has knowingly and willfully violated section 22.207 of this subtitle or has been convicted of a criminal offense arising from lobbying activities.

(b) (1) Upon request of the Commission, the County Solicitor may file a petition for injunctive or other relief in the Circuit Court of Howard County, or in any other court having proper venue for the purpose of requiring compliance with the provisions of this subtitle.

(2) (i) The court may:

a. Issue an order to cease and desist from the violation;

b. Except as provided in subparagraph (ii) of this paragraph, void an official action taken by an official or employee with a conflict of interest prohibited by this subtitle when the action arises from or concerns the subject matter of the conflict and if the legal action is brought within 90 days of the occurrence of the official action, if the court deems voiding the action to be in the best interest of the public; or

c. Impose a fine of up to $1,000.00 for any violation of the provisions of this subtitle, with each day upon which the violation occurs constituting a separate offense;

(ii) A court may not void any official action appropriating public funds, levying taxes, or providing for the issuance of bonds, notes, or other evidences of public obligations.

(c) (1) Any person who knowingly and willfully violates the provisions of section 22.207 of this subtitle is guilty of a misdemeanor, and upon conviction, is subject to a fine of not more than $1,000.00 or imprisonment for not more than six months, 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, upon conviction, is subject to the same penalties as the business entity.

(d) In addition to any other enforcement provisions in this subtitle, a person who the Commission or a court finds has violated this subtitle:

(1) Is subject to termination or other disciplinary action; and

(2) May be suspended from receiving payment of salary or other compensation pending full compliance with the terms of an order of the commission or a court.

(e) (1) A person who is subject to the provisions of this subtitle shall obtain and preserve all accounts, bills, receipts, books, papers, and documents necessary to complete and substantiate a report, statement, or record required under this subtitle for three years from the date of filing the report, statement, or record.

(2) These papers and documents shall be available for inspection upon request by the Commission or the County Council after reasonable notice.

(f) In addition to any other enforcement provisions in this subtitle, a person who is found guilty of a violation of section 22.204 of this subtitle is subject to forfeiture of office in accordance with section 901(c) of the Howard County Charter.

(g) Any contract made in violation of section 22.204 of this subtitle may be declared void by the County Executive or by resolution of the County Council in accordance with section 901(c) of the Howard County Charter.

(C.B. 50, 2011, § 1)

Sec. 22.209. - Severability.

If any section, sentence, clause or phrase of this subtitle is held invalid or unconstitutional by any court or competent jurisdiction, the ruling shall not affect the validity of the remaining portions or this subtitle.

(C.B. 50, 2011, § 1)

[116] **State Law reference—** Local public ethics laws, Ann. Code of Md., State Government article, § 15-801 et seq.; public ethics laws required, Ann. Code of Md., State Government article, § 15-803; special provisions for Howard County, State Government article, § 15-848 et seq. (Back)