

SENATE BILL 805

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7lr1714
CF HB 882

By: **Senator Young**

Introduced and read first time: February 3, 2017

Assigned to: Education, Health, and Environmental Affairs

A BILL ENTITLED

1 AN ACT concerning

2 **Frederick County – Ethics – Prohibited Contributions to Planning Commission**
3 **Members**

4 FOR the purpose of prohibiting a certain applicant from making a contribution to a member
5 of the Planning Commission in Frederick County who is a candidate for Frederick
6 County Council or Frederick County Executive during a certain period of time;
7 prohibiting a certain member of the Planning Commission from voting or
8 participating in the proceedings on a certain application if the member, the
9 treasurer, or the political committee of the member received a certain contribution
10 from a certain applicant during a certain period of time; authorizing a certain
11 member of the Planning Commission to participate in a comprehensive zoning or
12 rezoning proceeding; requiring a member of the Planning Commission who
13 communicates ex parte with an individual concerning a pending application to file a
14 certain disclosure; exempting certain communications from a requirement to file a
15 certain disclosure; repealing certain provisions of law relating to the requirement
16 that a certain party of record file a certain affidavit under certain circumstances;
17 altering certain defined terms; making conforming changes; and generally relating
18 to prohibited contributions to Planning Commission members in Frederick County.

19 BY repealing and reenacting, with amendments,
20 Article – General Provisions
21 Section 5–857, 5–858, 5–859, and 5–861
22 Annotated Code of Maryland
23 (2014 Volume and 2016 Supplement)

24 BY repealing
25 Article – General Provisions
26 Section 5–860
27 Annotated Code of Maryland
28 (2014 Volume and 2016 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



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

Article – General Provisions

5–857.

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

(b) “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) (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” 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 governing body 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” [means a candidate for County Executive or County Council who becomes an elected official] **HAS THE MEANING STATED IN § 1–101 OF THE ELECTION LAW ARTICLE, BUT ONLY AS IT APPLIES TO A CANDIDATE SEEKING ELECTION AS A MEMBER OF THE FREDERICK COUNTY COUNCIL OR THE COUNTY EXECUTIVE OF FREDERICK COUNTY.**

(g) “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” means the governing body of Frederick County.

(i) “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” means a person that participated in a proceeding on an application before the governing body **OR THE PLANNING COMMISSION** by appearing at a public hearing or filing a statement in an official record.

(k) “Pendency of the application” means the time between the acceptance by the [County Department of Planning and Zoning] **COUNTY** 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” means a committee specifically created to promote the candidacy of **A CANDIDATE WHO IS** a member of the governing body [who is running for an elective office] **OR THE PLANNING COMMISSION**.

(m) “Treasurer” has the meaning stated in § 1–101 of the Election Law Article. 5–858.

(a) An applicant may not make a contribution to a member of the governing body **OR THE PLANNING COMMISSION** during the pendency of the application.

(b) Except as provided in subsection (c) of this section, after an application has been filed, a member of the governing body **OR THE PLANNING COMMISSION** 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) A member of the governing body **OR THE PLANNING COMMISSION** may participate in a comprehensive zoning or rezoning proceeding.

5–859.

(a) This section does not apply to a communication between a member of the governing body **OR THE PLANNING COMMISSION** and an employee of the Frederick County government whose duties involve giving aid or advice to a member of the governing body **OR THE PLANNING COMMISSION** concerning a pending application.

(b) A member of the governing body **OR PLANNING COMMISSION** 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.

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.

(a) 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) (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.

1 (3) All summary reports compiled under paragraph (2) of this subsection
2 shall be available to members of the public on written request.

3 (4) All [affidavits,] disclosures[,] and accompanying documentation
4 required under this part shall be in the form required by the Frederick County Ethics
5 Commission.

6 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
7 October 1, 2017.